

LEGISLATIVE LINE-ITEM VETO PROPOSALS

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Legislative Line Item Veto Proposal

HEARING
BEFORE THE
COMMITTEE ON THE BUDGET
UNITED STATES SENATE
ONE HUNDRED THIRD CONGRESS
SECOND SESSION

OCTOBER 5, 1994



OFFICE OF THE CLERK
U.S. SENATE
WASHINGTON, D.C. 20540

Printed for the use of the Committee on the Budget

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LEGISLATIVE LINE-ITEM VETO PROPOSALS

WEDNESDAY, OCTOBER 5, 1994

U.S. SENATE,
COMMITTEE ON THE BUDGET,
Washington, DC.

The committee met, pursuant to notice, at 10:03 a.m., in room SD-608, Dirksen Senate Office Building, Hon. Jim Sasser (chairman of the committee) presiding.

Present: Senators Sasser, Exon, Conrad, Domenici, Grassley and Gregg.

Staff present: Larry Stein, staff director; and Bill Dauster, chief counsel.

For the minority: G. William Hoagland, staff director; and Austin Smythe, director of budget process and energy.

OPENING STATEMENT OF CHAIRMAN SASSER

Chairman SASSER. The committee will come to order.

Today, the Senate opens another chapter in the history of the line-item veto. This hearing was requested, as I understand it, by every member of the Republican side of this committee. Let the record show that at 10:03, as we open these hearings, one member of the minority is here and nobody else.

Now, as Senators know, it has been a long history dealing with this whole question of the line-item veto. President Grant proposed an amendment to the Constitution to give the President a line-item veto in 1876. Many Presidents, Senators and Members of Congress have followed his lead in the century since. At least 18 such amendments are pending before the Senate and House Judiciary Committees.

In the Impoundment Control Act of 1974, Congress tried to define in statute the President's power to cancel spending. Ever since, Senators and Members of Congress have advocated changes in that law. Over 20 bills of this nature are pending before various committees of Congress.

As members of this committee know, the Impoundment Control Act sought to balance the impoundment powers of the President and the Congress. Under the current law, the President has the power to defer spending for specified purposes, unless Congress passes a law to force the President to spend the money immediately.

On the other hand, the President cannot rescind spending, that is permanently cancel it, unless the Congress passes a law to cancel the earlier law ordering the spending.

Some bills seek to change what happens if Congress takes no action on a presidential rescission request. These bills, proposing what is called enhanced rescission, would allow the President to cancel an item of spending, unless the Congress affirmatively passes a second law requiring the President to spend the money.

Senator McCain has introduced such a bill and will testify before us today.

Other bills do not change what happens if Congress does not act, but merely force Congress to vote up or down on the President's rescission request. These bills propose what is called expedited rescission. Senators Cohen and Craig have both introduced such a bill. Both will testify before us this morning, as well.

Still other bills change the rules of the Congress to require that the Senate or the House pass each item of spending as a separate bill. These bills propose what is called separate enrollment. Senator Hollings and Senator Bradley have each introduced such bills. Senator Bradley will testify before us this morning, as well. The press of business before the Commerce Committee will keep Senator Hollings from testifying before the committee today.

Senator Hollings asks that his statement be printed in the record of the hearing at the appropriate place, and I ask unanimous consent that that occur. Without objection, it is ordered that Senator Hollings' statement will be printed in the record as if read.

[The prepared statement of Senator Hollings follows:]

PREPARED STATEMENT OF SENATOR HOLLINGS

LEGISLATIVE LINE-ITEM VETO SEPARATE ENROLLMENT AUTHORITY ACT

Mr. Chairman, in the context of \$4 trillion-plus national debt, I would like to think that the case for a line-item veto is pretty much self-evident. Nonetheless, I appreciate this opportunity to set forth the merits and advantages of my particular approach as embodied in the Legislative Line-Item Veto Separate Enrollment Authority Act.

Let me make it very clear what this bill is about and what it is *not* about. The line-item veto *is* about eliminating wasteful spending. We are *not* talking here about some highfalutin principle of Constitutional powers. I just don't go along with the idea of making a fetish out of legislative prerogatives. *The issue here is not the separation of powers; the issue is the sharing of responsibility and accountability.* Right now, the responsibility for budget cutting rests almost exclusively on Congress; I want to shift an equal share of that responsibility to the executive branch.

Currently, Mr. Chairman, after the President submits his budget proposal in January, he can effectively wash his hands of the messy business of actually writing a budget. He doesn't have to share the heavy lifting of drafting of the bills, and the President can even disclaim responsibility for the bills he signs into law. To put it mildly, this situation is not conducive to a constructive budget partnership.

The line-item veto would make the President a more active participant in the difficult task of cutting Federal spending. The executive branch would know it has final responsibility for either vetoing or—by inaction—implicitly approving each line item in each appropriations bill. This will give the President an incentive to play a more constructive role throughout the appropriations process, and it will restore presidential co-accountability and co-responsibility for appropriations bills. Instead of denying responsibility for appropriations bills that emerge from Congress—as Mr. Clinton's predecessors regularly did, the President would be obliged to put his veto where his mouth is.

Mr. Chairman, I welcome the strong support of President Clinton for a line-item veto. Under Mr. Clinton's two predecessors, we had flamboyant rhetorical support for the line-item veto, but neither President flexed his muscle—especially with Republican legislators to give the line-item veto the boost it needed to become law.

Specifically, I think back to 1985, when the Senate made a singular effort to fix responsibility for the budget. As part of that effort, Senator Mack Mattingly, with full support, pushed the line-item veto. The Mattingly bill was filibustered, and, re-

grettably, we came just two votes short of cloture, with seven Republican Senators voting nay. There is no question whatsoever in my mind that if President Reagan had been serious about obtaining the line-item veto, he could have rounded up the necessary 60 votes for cloture. He declined to do so.

Again, with the coming of the new Administration in early 1989, I initiated another push for the line-item veto. I met with Dick Darman and advised him that the President should demand the line-item veto, and if Congress refuses him he should put the blame on Congress and then move forward with a tough-minded program of deficit reduction. Thereupon, I did my part by introducing the line-item veto bill and passing it out of the Budget Committee on a solid 13-6 majority vote. The bill was on the floor, but fell victim to the budget summit at Andrews Air Force Base that fall. All the chatter at Andrews was about "process reform", and I lobbied the summitters to include the line-item veto in the final summit package, only to be told that no one wanted it.

More recently, in March, 1993, the Senate passed by a vote of 73 yeas and 24 nays the Bradley-Hollings amendment to the Budget Resolution, expressing the sense of the Senate that the President should be granted line-item veto authority over items of appropriation and tax expenditure. In June, 1993, the Senate voted 53 yeas and 45 nays—only 7 short of the necessary 60 votes—to waive the Budget Act to permit consideration of the Bradley amendment permitting the same line-item veto of appropriations and tax expenditures.

If the line-item veto becomes law, and if the President wields it aggressively, I predict the we will see real and substantial reductions in the deficit. On this score, however, we all need to be realistic. A line-item veto is not, by itself, going to balance the budget.

I recall President Reagan's final State of the Union message in January 1988, when he made a pitch for the line-item veto and served notice that he intended to send Congress a list of budget items that, given his druthers, he would have struck from the \$600 billion fiscal 1988 continuing resolution. Ronald Reagan had a reputation as the Daddy Rabbit of budget cutters, but when his hypothetical list of line-item vetoes arrived on Capitol Hill, it included only 107 items and added up to a grand total of only \$1.15 billion in 1988 outlays.

William Diefenderfer III, former deputy director at OMB in the Bush administration, put the line-item veto in good perspective in a speech to the U.S. Chamber of Commerce. As he put it, "Some say, 'Well, yeah, but you can only save \$3 or \$4 or \$5 billion a year by use of the line-item veto'. . . . Where I come from and where I know all of you come from, \$3 or \$4 or \$5 billion a year is real money."

Indeed, the record at the State level is much more impressive and encouraging. Governors in 43 States employ the line-item veto on a routine and effective basis. Our colleague, Senator Simon—who also advocates a line-item veto—testified in 1990 that his State of Illinois had saved more than \$2 billion over the previous 7 years because of the line-item veto. I know that during my term as Governor of South Carolina, I used the line-item veto time and time again to eliminate millions of dollars of wasteful spending, and as a result I balanced four State budgets and won the first AAA credit rating of any southern State.

Mr. Chairman, here are the nuts and bolts of my bill. The bill amends the Congressional Budget Act to provide that each "item" in an appropriation bill shall be enrolled as a separate bill and sent to the President for his approval. Thus enrolled as bills, each "item" of an appropriation bill would be subject to veto or approval just like any other bill, and the override provisions found in Article I of the Constitution would apply in the case of a veto.

The bill defines "item" as any and all paragraphs and numbered sections contained in appropriated bills. In addition, the legislation includes an automatic sunset provision under which the line-item veto authority will expire in 2 years unless expressly renewed by Congress. This last provision will give Congress an insurance policy against potential abuses in the use of the line-item veto authority.

Mr. Chairman, under current law, the President essentially has two choices when presented with an appropriations bill: he can sign it; or, if he objects to one or more specific line-item provisions, he can veto the bill in its entirety. A third option, rescission, is clumsy and ineffectual, and just isn't a realistic alternative in most instances.

Mr. Chairman, I have said that this line-item veto bill is critical to fixing responsibility and accountability. I would go further. The line-item veto is also about restoring the credibility of this government. I cringe for our government every time I read about some outrageously wasteful line-item appropriation. For example, we all recall the example several years ago of an appropriation to restore the home of Lawrence Welk as a historic landmark. Our reputation as an institution suffers the death of a thousand blows as these types of line-item outrages are made public on

the evening news. By giving the President line-item veto authority, we'll see a lot fewer of these kinds of home-town boondoggles. And if legislators persist in putting these wasteful projects in appropriations bills, then the President will save us from ourselves by vetoing the offending line-items.

Mr. Chairman, Congress itself has recognized the utility of the line-item veto by giving it to the Governors of Puerto Rico and the Virgin Islands. I say it is high time we gave that same line-item veto authority to our colleague at the other end of Pennsylvania Avenue.

Chairman SASSER. Yet another perspective is presented by Senator Specter, who has introduced Senate resolutions asserting that the President already has a line-item veto and ought to use it. Senator Specter will testify before the committee this morning, as well.

I would also like to note that, in addition to the Senators who will testify before us today, the distinguished senior Senator from Nebraska, Senator Exon, a senior member of this committee, has introduced a legislative line-item veto bill of his own. Furthermore, besides Senate sponsored legislation, two House passed bills are also pending in this committee and are the subject of discussion today.

In recent years, the Senate has voted several times on legislative line-item veto proposals like those I have just described. Most recently, in 1993, in separate votes, the Senate failed to waive points of order against a Bradley separate enrollment amendment and a McCain enhanced rescission amendment. The Senate conducted similar votes on enhanced rescission amendments in 1992, 1990 and 1989.

On the occasion of the 1992 vote, the Senate conducted an extensive and informative debate of legislative line-item veto proposals. The distinguished President pro tempore of the Senate, Senator Byrd, played a key role in that debate and will testify before this committee early this afternoon.

The committee has also acted on legislative line-item veto bills in the recent past. In October of 1989, this committee conducted joint hearings with the Governmental Affairs Committee, with which we share jurisdiction, on several budget process proposals, including Senator Coats' enhanced rescission bill.

In July of 1990, this committee rejected two enhanced rescission proposals by votes of 10-to-12. At the same time, this committee voted out Senator Hollings' separate enrollment bill by a vote of 13-to-6. The Senate did not take up that bill.

Realistically, we must recognize that we do not have time to enact a legislative line-item bill in this session of the Congress, either. Were this committee to report such legislation, it would have to go through either the Governmental Affairs Committee or the Rules Committee before it could get to the floor. And once on the floor, such a bill would almost certainly face extended debate.

But, as Senator Craig has noted in the last 2 weeks in statements on the floor of the Senate, this is an issue that will be back before the Congress next year, and our hearings today will aid our consideration of that legislation then.

Today, we hear from 6 Senators, 5 of them sponsors of legislative line-item bills. Then early this afternoon, Chairman Byrd will reply. This hearing promises to present a thorough airing of the major issues involved in such legislation. In furtherance of that end, I ask unanimous consent that the printed record of the hear-

ings include at its end the text of the line-item veto legislation pending in the 103rd Congress, as well as other material on the subject matter of these hearings. Without objection, that will appear in the record.

Senator DOMENICI. I object.

Chairman SASSER. In that case, it will not appear in the record.

Senator DOMENICI. I do not object. [Laughter.]

Chairman SASSER. All right. I would now like to turn to the distinguished ranking Republican member of the committee, Senator Domenici, for whatever opening remarks he might wish to make.

Senator Domenici?

Senator DOMENICI. I merely made that comment so that you would know I was here, since you had been commenting about absence here. We are now here in force.

Chairman SASSER. Good—well, three.

Senator DOMENICI. I would like to yield to whichever of the two Senators who arrived first for their statement.

OPENING STATEMENT OF SENATOR GRASSLEY

Senator GRASSLEY. It has been several months, Mr. Chairman and Mr. Domenici, since this committee last came together. In this short period of time, we have seen OMB and CBO continually add red ink to their estimates of the Federal deficit and national debt. This August, CBO released its revised estimates, and the long-term outlook is even darker than we anticipated. CBO sees deficits of nearly \$400 billion by the year 2004. Of equal concern, in just 5 months, the CBO has revised upward by \$100 billion its estimate of the deficit for the years 1996 through 2004.

The trend is certainly ominous. As I feared, these new deficit projections have swallowed the gnat-size reduction in the deficit that Senator Exon and I fought so hard to achieve earlier this year when we passed the Exon-Grassley amendment. When it comes to reducing the deficit, it unfortunately seems like we take one step forward and two backwards.

These new deficit figures have me thinking that next year perhaps Senator Exon and I ought to try to have a follow-on version of our Exon-Grassley I, with an Exon-Grassley II next year, and hopefully it will be much larger than the gnat-size that we passed this year.

It is because the debt continues to grow that this hearing today is so important. Clearly, we must make fundamental reforms in the way that we do business here in the Congress, if we are going to bring the deficit down. Enhanced rescission authority and the line-item veto are certainly tools that can be used to cut spending and reduce the deficit. I am proud to have voted for or cosponsored much of the legislation that is going to be discussed today.

So I commend my colleagues testifying today who have led the fight on this important issue, and look forward to hearing their informed views on this matter.

I want to raise one other issue, and that is when this Administration first sent its fiscal year 1995 budget up here and stated that there was no problem in the funding of defense. Then in hearings before this committee, the Administration admitted that there

was a \$20.6 billion gap, but they said that this was only because of inflation.

Next, the CBO reported that the \$20.6 billion was not due to inflation, but, more importantly, the GAO issued a report stating that there is actually a \$150 billion gap between the President's budget and the Pentagon's plans. In addition, I have recently received an internal DOD report that supports the GAO findings. Now the Department of Defense is admitting there may be a \$40 billion gap, and the Chairman of Joint Chiefs of Staff is quoted as saying we think there is a problem, we are arguing about the size of that problem.

So, Mr. Chairman, it is very difficult to get to the bottom of this and, regardless of whether the problem is \$20.6 billion, \$40 billion like Defense admits, or \$150 billion that GAO says is there, this is no way to run the Pentagon. This has serious budgetary implications. These budget games hurt troop readiness, and harm our national security, undermine efforts to control spending.

I know that you, Mr. Chairman, and I hoped to have a hearing on this important issue this year. Unfortunately, calendars get full quickly around here. So I hope, Mr. Chairman, that the Budget Committee can meet early next year to give this issue of the shortfall between plans and what we budget for the Pentagon the full and complete attention that it deserves.

Chairman SASSER. Thank you. I want to assure the Senator from Iowa that I would like very much to do that next year. I think that would be a very important undertaking, and we should do it.

Senator Exon?

OPENING STATEMENT OF SENATOR EXON

Senator EXON. Thank you very much, Mr. Chairman.

I would like to make an opening statement that is not too lengthy, but to try and put in perspective what this one Senator sees. Like many other members of the committee, I want to thank you very much, Mr. Chairman, for conducting this hearing on legislative line-item veto proposals such as enhanced and expedited rescission powers.

I must admit, however, that I have been disappointed that we have not made more progress than we have on this important matter. I think the record is clear that I have long supported the concept of providing some form of line-item veto to our President, and I can assure my fellow supporters that I still do. My support for such a power dates back to my days as Governor of the State of Nebraska, where I used the line-item veto with great success in trying to keep our State's budget under control.

I can assure you that the members of the Nebraska Legislature were often very unhappy with my actions. Yet, the fact remains that the line-item veto was a very useful tool to partially attempt to keeping the State of Nebraska's budget under control. It was not a cure-all, but it was a great aid.

I would hasten to agree that I understand that there are some differences between the Federal and the State governments. I also understand that the problem at all levels of government is more spending demands than receipts tend to cover.

Since my arrival in the Senate, I have repeatedly supported efforts to provide our President with line-item veto powers. Many years ago, I worked with then Senator Dan Quayle in offering a "pork buster" amendment to our budget reconciliation bill. In 1992, I submitted an amendment to give our President the legislative line-item veto. I have cosponsored legislation on this issue and have introduced my own proposals that the Chairman has alluded to.

I know that there are quite a few ways, and probably pros and cons on all of them, to design the legislative line-item veto, and we are going to hear a number of Senators regarding their own proposals today. Just let me say that I stand ready to support any responsible proposal on this issue, as I think it is past time that we give our President this power.

In my view, however, the critical issue from the view of how to move forward on this issue is to develop a compromise—I emphasize the word "compromise," hopefully a bipartisan compromise—between those who want to do nothing and those who want to, in effect, give a veto power over each item to be rescinded. The critical difference in this regard is whether it takes a majority of the members of the Congress to override the presidential rescission, or whether it takes a two-thirds super majority to do so.

That is why I introduced my own proposal on this issue, S. 224, at the beginning of this session of Congress, and why I have expressed my support for the version of the line-item veto as passed by the House of Representatives. Both set out a plan that is dependent upon a majority vote in Congress, an idea that dates back at least in part to the Exon-Quayle "pork barrel" busing amendment in 1986, and likely even probably further beyond that.

It seems to me, Mr. Chairman, that the facts are that we are far short of the 60 votes that would be needed to break a filibuster on any issue in this area, and by working out compromises on some of these issues, we can perhaps put together a measure that will succeed. We obviously are not at this point yet, but I remain hopeful that we can continue to get support for this important concept.

I know that the opponents of the legislative line-item veto like to point out that we really will not save all that much with a proposal, and frankly that is indeed the big picture. The line-item veto will impact only a portion of our budget, and savings on the line-item veto will not make a major dent, in my opinion, in our deficit, which continues to be much too large.

On the other hand, we are not going to solve our budget problems with a single bill. Our \$4.5 trillion debt was not built up overnight and will not be resolved overnight. Instead, we have to accept the fact that balancing our budget will not be easy, nor will it be accomplished quickly. If there is one problem that I have with all of this talk about balancing the budget, it is that we continue to look for a silver bullet, if you will, something that we can do dramatically and very quickly to solve the problem.

I think rational people who understand the budget process and the problems of it should stand back and take a look at this and say we are going to have to do this in an incremental fashion, if we are going to do it at all. We need to use all of the tools that

are currently available to us, and some more that I hope we can invent.

Last year's budget reduction efforts were certainly a major step in the right direction, in the opinion of this Senator. But my opinion, as usual, is not universally accepted. Its opponents, including every minority member of this important Budget Committee, correctly pointed out that the deficit reduction bill did not solve our Federal budgetary problem. I agree. Yet, I viewed that as a feeble excuse to oppose that effort, and I view such an argument as a feeble excuse not to back a legislative line-item veto which cannot possibly solve our budgetary problems, yet it also is another step in the right direction in the long process that I think we are going to have to saddle up to, if we want to pull the wagon down that way on a bipartisan basis.

Mr. Chairman, I thank you again for holding this hearing, and I would like to express my hope that the supporters of this concept will enjoy more success in the coming session of Congress than we have witnessed in the ones before and the one that is about to end.

Thank you, Mr. Chairman.

Chairman SASSER. Thank you, Senator Exon.

Senator Gregg was next in order of attendance.

OPENING STATEMENT OF SENATOR GREGG

Senator GREGG. Thank you, Mr. Chairman.

I would like to join in saying I think this is an important hearing. Unfortunately, I think we have missed a great opportunity. The House of Representatives passed an enhanced rescission bill in July, and it has now taken us until 2 days before the end of the session before we have had a chance to basically hold a hearing on that bill, and obviously we are not going to have time to proceed to markup and pass that bill.

That is time that was unfortunately not well spent on this issue, in my opinion, because this is a critical issue, and I think Senator Exon has put it in the right context. This is one of the building blocks for getting our budget under control. It is, obviously, not the entire medication that is needed for curing this illness, but it is merely part of the restorative process of putting in place effective budget control for our government.

The fact that we have not taken advantage of what the House has done is a failure of the Senate as an institution. Clearly, there are members of the Senate who do not agree with this approach. At least, we should have had the House language on the floor, had it debated and had an up-and-down vote on it before this session is over, so that we could have sensed where the votes were and whether there was an opportunity to take advantage of the opening that the House has given us in this area.

However, I am sure this hearing will be useful in setting up for next year, and I would hope that next year we will maybe beat the House and pass our legislation before the House passes theirs, and then we can actually put in place the type of legislation and start the process of restoring our budget process of the institution.

Thank you, Mr. Chairman.

Chairman SASSER. Thank you, Senator Gregg.

Senator Domenici?

Senator DOMENICI. Mr. Chairman, first I apologize, I was about 7 or 8 minutes late. I think my staff knew I was coming, but I probably should have sent word.

Chairman SASSER. I apologize to you, Senator Domenici. My remark was not directed at you, and I want you to understand that. It is just that this hearing, as you know, had been requested by every member on the minority side, and it is rather discouraging to be holding this hearing this late in the session and see that those who requested the hearing have such little interest that they do not appear. But my remark was certainly not directed at you, and I want you to understand that.

Senator DOMENICI. Thank you very much.

Mr. Chairman, let me tell you that I do have a few remarks and a little bit of history, so, if you do not mind, I will take 5 or 6 minutes. When are our witnesses scheduled to be here?

Senator EXON. 11:00 o'clock, I believe.

Chairman SASSER. Yes.

Senator DOMENICI. I may talk for a half hour.

Senator EXON. You have plenty of time, Senator Domenici.

Senator DOMENICI. You can recess for the rest of the—

Chairman SASSER. We are going to be interrupted by a vote, I am advised, at 10:45.

OPENING STATEMENT OF SENATOR DOMENICI

Senator DOMENICI. Anyhow, we are at the end of this Congress, and I am not critical of anyone, but I think it is obviously a little late to be holding a hearing on this subject. But the more I think about it, the more I am convinced that there isn't the need for very much of a hearing on this subject. What is needed at the earliest practical time is for this committee to hold a markup and report out a bill. While there is no time in the next 24 or 48 or 36 hours to do that, I am convinced that is the next step.

Why do I say this? Simply stated, and unequivocally, its time has come, and these are my reasons. First of all, all but two Presidents in the 20th Century have expressed their support for item veto authority of one kind or another. Most recently, candidate Bill Clinton assumed savings of nearly \$10 billion in his book, Putting People First, from the enactment of the line-item veto authority. Now, that does not mean we would agree and hope that he would do every one of those, but it shows its dimensions even in the mind of this President that it could be worth \$10 billion.

Then, as President Clinton endorsed enhanced rescission authority in his first two budgets submitted to Congress, we have further evidence that this President joins many others in thinking something is wrong in the balance of power. The Vice President's National Performance Review recommended changes to the existing rescission authority.

Second, almost exactly 4 years ago, this committee reported Senator Hollings' original bill that would have amended the Congressional Budget Act and created a line-item veto authority through the separate enrollment of each item in an appropriations bill. The bill was reported with 13 votes in favor and 6 in opposition from this committee. It was then referred to the Governmental Affairs Committee, Senator Exon, where it died. Normally, what has been

happening is if one committee approves, the other lets it die, and that game goes on. Its time has come.

Third, during this Congress, the House has passed and sent to the Senate not one, but two enhanced rescission bills. The first, entitled "Expedited Rescission Act of 1993," passed the House in April 1993. It was referred to this committee. It would amend the Congressional Budget Act by requiring Congress to vote on the President's proposed rescissions or an alternative within 10-legislative days of its submission to Congress.

Not satisfied that the Senate was taking seriously its action, the House sent us another bill this year, last July, now entitled "Expedited Rescission Act of 1994." This time, the House included a provision expanding the rescission authority by applying it to targeted tax benefits in revenue bills. That bill, too, has been referred to this committee.

Maybe we even have each House thinking that they can pass something like this and send it to the other House, and that the other House will not do anything. Although I know such is the case in the Senate, I do not think I am prepared to say that is the case in the House.

Fourth, in the Senate during this session, five Senate bills that reform the rescission process have been introduced. Over 35 Senators are either sponsors or cosponsors of these bills.

Fifth, we also know that, as of today, 43 of the 50 State governors have some form of reduction or item veto authority. Finally, sixth, if we look back over our voting record since 1983, I conclude that, out of the 287 votes cast by the current members of this committee on the floor relating to this subject matter, a close majority, 141, favored reforming the current rescission authority. Most of these proposals failed, I should note, simply because they had not been reported from this committee, therefore violating the Budget Act and requiring 60 votes.

So, in a very real sense, because of the language in the Budget Act, failure to mark something up here has precluded the passage of enhanced rescission. For these reasons, I conclude that we should be reporting out an expedited rescission bill, instead of holding any more hearings. The time has come and, if not in this particular Congress, I am confident that in the 104th that we will adopt some measure to alter the rescission authority of the President. I hope the Budget Committee will call a markup early in the next Congress to do this bill.

I have chosen my words carefully, "expedited rescission." This is different from line-item veto authority envisioned in some proposals. It is sometimes said that Congress is granted the power of the purse to offset the President's power of the sword. Today, in Haiti, the President is exercising the power of the sword.

I am not ready to turn as much power of the purse over to the President as, let us say, Senator McCain's proposal would. But I think there is a need to recalibrate the scales and provide that the executive has an opportunity to have its rescission proposals considered expeditiously, with a vote up and down on them. That is what I mean by expedited rescission.

So I support reforming the rescission process. I think when we do it, it should be clean, clear and unambiguous, so we do not have

another opportunity to muddle along and confuse people as to what we really meant or did not mean by enhanced rescission.

I remain realistic in all respects about the impact of these kinds of measures on future Federal spending. I agree with Senator Exon. While I support this wholeheartedly, this must be done, I do not think anyone should think that it is going to be a major tool for getting our deficit under control. There is no question that entitlements remain the problem and, until we are willing to address them, we just will not get that \$400 billion deficit that somebody alluded to under control.

Thank you, Mr. Chairman.

Senator EXON. Mr. Chairman?

Chairman SASSER. Senator Exon.

Senator EXON. May I briefly respond. I thank my friends on the other side of the aisle who have spoken on this matter. I think that Senator Domenici put his finger on it as to the only way I think we can get this done.

I have been generally supporting all of the enhanced rescission line-item veto proposals, anything that we can get through. I suspect, though, from the standpoint of reality as to what we can and cannot do, and to continue to exercise in futility the enhanced rescission process as just alluded to by Senator Domenici and others.

It seems to me it is the vehicle possibly for compromise. Certainly, Senator Byrd will be here this afternoon, and we all know how our dear friend and colleague Senator Byrd feels about this. Not only has he been the prime leader against doing anything like this for a long, long time, but I have listened to his arguments, and certainly he makes a lot of good sense on some of these things.

Therefore, it seems like, from the standpoint of reality, we probably are going to have to come up with some kind of enhanced rescission, as opposed to a line-item veto. A line-item veto per se probably is something that we will never get compromise on, and maybe we can on some form of enhanced rescission.

Chairman SASSER. Thank you, Senator Exon.

We will not begin hearing witnesses until 11:00 o'clock. We have a vote scheduled on the floor at 10:45. So I will declare the committee in recess until 11:00 o'clock, when we will take up the testimony of Senator Bradley.

Senator DOMENICI. Mr. Chairman, we request that Senator Gorton's statement be placed in the record.

Chairman SASSER. Senator Gorton's statement will appear in the record as if read.

Senator DOMENICI. Thank you.

[The prepared statement of Senator Gorton follows:]

PREPARED STATEMENT OF SENATOR GORTON

Mr. Chairman, I am glad to see the Budget Committee holding these hearings. I am disappointed, however, that this committee took so long to do so.

It is true that through the imposition of the higher taxes in the Clinton budget, Congress achieved a short term improvement in the budget deficit, at a long term cost in economic growth. The budget deficit remains a big problem for us and for future generations. Clearly, our long term budget problems require a serious investigation of budget and spending reforms like those embodied in many of the proposals before the committee today.

As I review the proposed reforms I am saddened by the recognition that we are required to propose reforms that are only common sense to anyone outside of the

beltway. I think if you asked any man or woman on the street of any town in this country he or she would agree with the thrust of these proposals. These Americans, I believe, would be horrified to hear that we need to change the law to require Congress to compare this year's spending to last year's spending level. I do not think Americans would understand the practice of inflating budget estimates for agencies and programs only to reduce spending on these agencies and programs so we can call ourselves "budget cutters". Americans would rightly argue that we should compare our budget fighting efforts not with some inflated baseline but with what the country spent in the previous year. It is just common sense, Mr. Chairman.

These same men and women would also be shocked to know that when Congress votes with much fanfare to cut a program, the money is usually spent elsewhere. Mr. Chairman, this country is running a \$200 billion deficit this year. Through September 1994, this country has accumulated a \$4.67 trillion debt. I believe the American people would agree that our continuing budget deficit and huge debt require that a cut in spending is a cut in spending, not a license to spend for a different bureaucracy. Outside the Beltway this kind of policy just makes sense, Mr. Chairman.

I doubt Americans would understand that current law requires the President to spend every cent appropriated by Congress, no matter how ridiculous or frivolous the expenditure. All too often, Congress insists on turning simple Presidential rescission requests into political footballs. Neither can I imagine that most Americans are aware of how abused is the "emergency" legislation process. Americans are a generous and caring people. Congress too often takes significant liberties with this emergency designation of legislation intended to help people in need. With our budget deficit, common sense would dictate that emergency spending authority is only used for true emergencies.

Of course, each of these proposals is embodied in Senator Craig's Common Cents Budget Reform legislation of which I am proud to be an original cosponsor. I believe that this kind of reform is essential to return some common sense to the budget and spending procedures in Congress.

To those who say that these proposals are not feasible I would respond, what is your alternative? As far as I can tell your alternative is to do nothing. This criticism implies that nothing but current policy is possible. These policies will result in \$300 and \$400 billion deficits by the turn of the century. Clearly the current policies and procedures are not going to improve the budget deficit picture. As a consequence, I hope that this hearing is only the first step, long overdue, toward reforming the budget and spending process in the Congress. We must move forward to reform these policies. The status quo will not do.

Chairman SASSER. We will now stand in recess until 11:00 o'clock.

[Recess.]

Senator EXON [presiding]. The committee will please come to order.

The committee is very pleased, although we are running 20 minutes late, to welcome our distinguished colleague from New Jersey, Senator Bradley.

Senator Bradley, please proceed in any fashion you see fit.

STATEMENT OF THE HON. BILL BRADLEY, U.S. SENATOR FROM THE STATE OF NEW JERSEY

Senator BRADLEY. Thank you very much, Mr. Chairman. Because we are 20 minutes late, does that mean I have to speak a little bit fast, so we can get this testimony much quicker?

Senator EXON. Without objection, your full statement will be included in the record.

Senator BRADLEY. Thank you very much, Mr. Chairman.

Mr. Chairman, by approving the \$500 billion deficit reduction package in August of 1993, this Congress chose a better future for our children and our Nation. However, that package was simply the first step in a long process. With annual budget deficits in ex-

cess of \$200 billion and growing, we cannot simply go back to business as usual.

Instead, we have to continue to prioritize spending and eliminate programs that no longer work. We have to question our data assumptions and make government serve the broad interests of all citizens, not just the narrow interests of those who make their voices heard here in Washington. If we do not make this commitment, the annual deficit will flow back up and voters will quite naturally begin to ask what they are paying the higher taxes for.

To make sure that we do not go back to business as usual, it is time to give the President the power to challenge wasteful spending, whether through the appropriations process or through tax bills, and to challenge it in the form of a line-item veto. To this end, I have introduced the Tax Expenditure and Legislative Appropriations Line-Item Veto Act of 1993.

Mr. Chairman, I have not always supported the line-item veto, but to change our Nation's spending habits, I had to change my mind, and I did, as I watched for 12 years as the deficit quintupled, as pork barrel projects persisted in appropriations and in tax bills, and Presidents again and again denied responsibility for decisions that led to the devastating deficits.

In 1992, I decided it was time to change the rules, and there is no tool to precisely calibrate the balance of power between the executive and the legislative branch. But if we have to swing a little too far in one direction or another at this critical moment in our history, we should lean toward giving the President the power that he has said he needs. We have a right to expect that the President will use this power for the good of all.

I also agree with the more recent Economic Commission chaired by our colleague Senators Nunn and Domenici that a line-item veto is not in and of itself deficit reduction. But if the President is willing to use it, it is the appropriate tool to cut a certain kind of wasteful spending, the pork barrel projects that tend to crop up in appropriations bills and in tax bills.

Pork barrel spending on appropriations and tax expenditures is only one of the types of spending that drive up the deficit, and it is certainly not as large as the entitlements for broad categories of the population, and we are starting to tackle those broad entitlements now. But until we control the expenditures for the few, we cannot ask for shared sacrifice from the many who benefit from entitlements or the many who pay taxes.

We need to be honest about the fact that, as many instances of outrageous unnecessary, special interest pork barrel as are buried in appropriations bill can be found in tax bills, as well, although often camouflaged in a kind of coded jargon that makes it impossible to figure out who benefits from this particular spending.

The Tax Code provides special exceptions from taxes that total over \$400 billion a year, more than the entire Federal deficit. In other words, Mr. Chairman, we spend through the Tax Code over \$400 billion a year. For every \$2.48 million earmarked in appropriations to teach civilian marksmanship skills, there is \$300 million special provision allowing wealthy taxpayers to rent their homes for 2 weeks without having to report any income at all on the income derived from that rental.

Some tax expenditures even cancel out spending for the common good. For example, we spend millions of dollars to clean up lead, asbestos and uranium, some of the most potent poisons on our planet. But in the Tax Code there is a \$12 million subsidy to produce these minerals. Because these provisions single out a narrow sub-class for benefit, the rest of us end up paying more taxes.

A line-item veto would allow the President to weigh these expenditures on special interests against our shared goal of cutting spending and lowering taxes for all. If the Congress concluded that these expenditures still have merit, Congress will have the power to override the veto.

Spending is spending, whether it comes in the form of a government check or in the form of a special exception from tax rates that apply to everyone else but you, because you have the special exception. Tax spending does not, as some pretend, simply allow people to keep more of what they have earned. It gives them a special exception from the rules that oblige everyone else to share in the responsibility of our national defense and protecting the young, the aged and the infirm.

The only way to let everyone keep more of what they have earned is to minimize these tax expenditures along with appropriated spending and the burden of the National debt, so that we can bring tax rates down fairly for everyone.

Mr. Chairman, the bill that I have introduced will require that each line item in any appropriations bill and any bill affecting revenues be enrolled as a separate bill after it is passed by the Congress, so that the President can sign the full bill or single out individual items to sign and/or veto.

It differs from other bills that have been introduced along this line, in that it avoids obvious constitutional obstacles, in that it applies to spending through the Tax Code, as well as through the appropriations process. Although I acknowledge that separate enrollment, especially separate enrollment of appropriations provisions, may prove difficult at times. In the face of a \$4 trillion debt, I do not believe that we have the luxury of shying away from making difficult decisions.

If, because of our appropriations process, we are unable to easily disaggregate appropriations into individual spending items for the President's consideration, then rather than throw out the line-item veto proposal, I believe we should reconsider how we appropriate the funds that are entrusted to us.

The legislation that I proposed would remain in effect simply 2 years. That period should constitute a real test of the idea. First, it will provide enough time for the Federal courts to address any questions about whether this approach is constitutionally sound. Second, we should have a formal process to determine whether the line-item veto works as intended, did it contribute to significant deficit reduction, did the President use it judiciously to cut special interest spending or, as some worry, did he use it to blackmail members of Congress into supporting his own special interest expenditures, did it alter the balance of power over spending, either restoring the balance or shifting it too far to the other direction.

Mr. Chairman, the American people have no more patience for finger-pointing or excuses. We can no longer tolerate a deficit that

saps our economic strength, while we in Washington insist that it is someone else who really has the power to spend or cut spending. The President or any others must have no excuses for failing to lead.

Mr. Chairman, it is a rather simple proposal. In summary, what it does is it is a line-item veto that applies both to appropriations bills and to tax expenditures, over \$400 billion of tax expenditures, and it is a workable provision. It is a 2-year test, and I believe that it would allow a President to be able to juxtapose this narrow special interest with the broad general interest, and in so doing not only cut some spending, but build a groundswell for spending cuts on entitlements and on the tax increase side, as well.

This is the argument and this is the proposal. I am pleased to respond to any questions that you might have.

Senator EXON. Senator Bradley, thank you very much.

[The prepared statement of Senator Bradley follows:]

PREPARED STATEMENT OF SENATOR BRADLEY

Mr. Chairman, during the 103d Congress, we have begun to make stark, honest choices between continued deficits, on one hand, and a serious commitment to a better future, on the other. By approving a \$500 billion deficit reduction package, this Congress has chosen a better future for our children and our Nation. However, the historic deficit reduction package is not enough. With annual budget deficits in excess of \$200 billion, and growing, we cannot simply go back to business as usual. Instead, we must continue to prioritize spending, eliminate programs that no longer work, question outdated assumptions, and make government serve the broad interests of all citizens, not just the narrow interests who make their voices heard in Washington. If we do not make this commitment, the annual deficit will float back up, and voters will quite naturally begin to ask what they are paying higher taxes for.

To make sure that we do not go back to business as usual, it's time to give the President the power to challenge wasteful spending, whether through appropriations or tax bills, in the form of the line-item veto. To this end, I have introduced the Tax Expenditure and Legislative Appropriations Line-Item Veto Act of 1993. I was pleased to have Senator Robb join me as an original co-sponsor, and am thankful for the additional co-sponsorship of Senators Campbell, Coats, Dorgan, and Lautenberg.

I have not always supported the line-item veto, but to change our Nation, I have changed my mind. Many times since I first ran for the Senate, I have thought through the arguments and each time I came to the conclusion that the line-item veto would tilt the balance of power farther toward the President than the delicate balance embodied in our Constitution. But I also watched for 12 years as the deficit quintupled, shameless pork-barrel projects persisted in appropriations and tax bills, and our Presidents again and again denied responsibility for the decisions that led to these devastating trends. In 1992, I decided that it was time to change the rules.

Although it remains true that the line-item veto would give the President more power than our founders probably envisioned, there is also truth in the conclusion of the National Economic Commission in 1989 that "the balance of power on budget issues has swung too far from the Executive toward the Legislative branch." There is no tool to precisely calibrate this balance of power, but if we had to swing a little too far in one direction or another, at this critical moment, we should lean toward giving the President the power he has said he needs. We have a right to expect that the President will use this power for the good of all.

I also agree with the more recent economic commission chaired by my colleagues Senator Nunn and Domenici that a line-item veto is not *in itself* deficit reduction. But if the President is willing to use it, it is the appropriate tool to cut a certain kind of wasteful spending—the "pork-barrel" projects that tend to crop up in appropriations and tax bills. Presidential leadership can eliminate these projects when Congress, for institutional reasons, usually cannot. Individual Senators and Representatives, who must represent their own local interests, find it difficult to challenge their colleagues on behalf of the general interest.

Pork-barrel spending on appropriations and taxes is only one of the types of spending that drive up the deficit, and is certainly not as large as the entitlements

for broad categories of the population that we are starting to tackle. But until we control these expenditures for the few, we cannot ask for shared sacrifices from the many who benefit from entitlements, or the many who pay taxes.

We need to be honest about the fact that as many instances of outrageous, unnecessary, special-interest pork-barrel as are buried in appropriations bills can be found in tax bills, although often camouflaged in coded jargon that makes it impossible to figure out who benefits. The tax code provides special exceptions from taxes that total over \$400 billion a year, more than the entire Federal deficit. For every \$2.48 million, earmarked in an appropriation bill, to teach civilian marksmanship skills, there is a \$300 million special provision allowing wealthy taxpayers to rent their homes for 2 weeks without having to report any income. For every \$150,000 appropriated for acoustical pest control studies in Oxford, MS, there is a \$2.9 billion special tax exemption for ethanol fuel production. And some tax expenditures even cancel out spending for the common good: we spend millions of dollars to clean up lead, asbestos and uranium, three of the most potent poisons on our planet, but in the tax code, there's a \$12 million subsidy to produce these minerals. As a member of the Finance Committee, I have seen an almost endless stream of requests for preferential treatment through the tax code, including special depreciation schedules for rental tuxedos, an exemption from fuel excise taxes for crop-dusters, and tax credit for clean-fuel vehicles.

In singling out these pork-barrel projects, I do not mean to pass judgment on their merits. However, because these provisions single out narrow subclasses for benefit, the rest of us must pay more in taxes. A line-item veto would allow the President to weigh these expenditures on special interests against our shared goal of cutting spending and lowering taxes for all. And if Congress concludes that these expenditures still have merit, Congress will have the power to override the veto.

If the President had the power to excise special interest spending, but only in appropriations, we would simply find the special interest lobbyists who work appropriations turning themselves into tax lobbyists, pushing for the same spending in the tax code. Spending is spending whether it comes in the form of a government check, or in the form of a special exception from the tax rates that apply to everyone else. Tax spending does not, as some pretend, simply allow people to keep more of what they have earned. It gives them a special exception from the rules that oblige everyone to share in the responsibility of our national defense and protecting the young, the aged, and the infirm. The only way to let everyone keep more of what they have earned is to minimize these tax expenditures along with appropriated spending and the burden of the national debt so that we can bring down the tax rates fairly, for everyone.

For the President to keep his promise to continue to reduce the deficit, he will need the power to block unnecessary spending for narrow local interests. For the President to hold the line on taxes, or even better, provide some meaningful tax relief for the vast majority of families who need help, he will need the power to block spending through the tax code for narrow interests.

The legislation itself is modeled on a bill my colleague Senator Hollings has introduced in several Congresses. I want to thank and commend Senator Hollings for working so hard to develop a workable line-item veto strategy, one that goes beyond political demagoguery to the real question of how to limit spending. This bill will require that each line item in any appropriations bill and any bill affecting revenues be enrolled as a separate bill after it is passed by Congress, so that the President can sign the full bill or single out individual items to sign and veto. It differs from other bills in that it avoids obvious constitutional obstacles and in that it applies to spending through the tax code as well as appropriated spending.

Although I acknowledge that separate enrollment, especially separate enrollment of appropriations provisions, may prove difficult at times, in the face of a \$4 trillion debt, I do not believe that we have the luxury of shying away from making difficult decisions. If, because of our appropriations process, we are unable to easily disaggregate appropriations into individual spending items for the President's consideration, then, rather than throw out this line-item veto proposal, I believe that we should reconsider how we appropriate the funds that are entrusted to us.

The legislation that I have proposed would remain in effect for just 2 years. That period should constitute a real test of the idea. First, it will provide enough time for the Federal courts to address any questions about whether this approach is constitutionally sound, or if a constitutional amendment is necessary. Only courts can answer this question, which is in dispute among legal scholars. Second, we should have a formal process to determine whether the line-item veto works as intended: Did it contribute to significant deficit reduction? Did the President use it judiciously to cut special-interest spending, or, as some worry, did he use it to blackmail Members of Congress into supporting his own special interest expenditures? Did it alter

the balance of power over spending, either restoring the balance or shifting it too far in the other direction?

The American people have no more patience for finger-pointing or excuses. We can no longer tolerate a deficit that saps our economic strength while politicians in Washington insist that it's someone else who really has the power to spend or cut spending. This President or any other must have no excuses for failing to lead.

Senator EXON. Earlier we had opening statements, and I just want to say that I think you know I have been a leader in trying to get something done on this general area, so the questions I am going to ask you are from a devil's advocate standpoint.

Let me first ask you this: There are all kinds of proposals, and yours is one of the most ingenious ones that I have looked at. The question is what can we accomplish, what can we get done in this area. There is a body of thought that, rather than a full line-item veto that you have espoused, that possibly it would be better, at least from a starting standpoint, to compromise something around enhanced rescissions, which is not as direct, would not be fully as effective, but has some merit.

What do you have to say about the proposition of enhanced rescissions, given the fact that I would assume that you feel that your more far-reaching proposal would be much better? What about starting at least with something that we may have a better chance of getting through, and that is enhanced rescission?

Senator BRADLEY. Mr. Chairman, I think we are all feeling the pressure that is building out there in the public to do something. I think that every time we pick up a newspaper and read about the latest pork barrel project that the media happens to focus on that day, or the latest outrageous tax gimmick that they happen to focus on, more pressure builds to do something.

I think that, therefore, doing the most aggressive thing stands as good a chance as doing something less aggressive, and that is why I would hope we could do the line-item veto and not the enhanced rescission. I think that when it comes right down to it, the institutional forces at work will be just as difficult to overcome on enhanced rescission as for line-item veto.

Senator EXON. This next question has to do with something that you mentioned that is going to be a central part of any debate in this area, and that is that if we give the line-item veto power to the President that you suggest, both on expenditures and on tax expenditures, this would give the President an additional club on individual members of the House and Senate along these lines, if you will vote for me on this, I will not line-item veto your particular proposal.

Senator BRADLEY. Right.

Senator EXON. That is an argument that you alluded to. Could you expand a little bit more on that? This gets into the whole matter, I suggest, of the balance of power between the executive and legislative branches that I am sure Senator Byrd will be arguing very effectively when he testifies before this committee this afternoon.

Senator BRADLEY. Mr. Chairman, the concern about the use of the line-item veto by the executive branch as a blackmail or a club over a legislator is the reason I did not support the line-item veto for 12 years of my Senate career. I was very concerned that a President might say to me, you want those operating assistance

dollars for mass transit, then you have got to go with me on the MX missile or whatever.

I concluded, however, as I saw the deficits getting bigger and bigger and I saw more, not less, special interest control, that it would be better to give the President the authority to line-item veto for a limited period of time, 2 years, in order to test whether it would be abused. And that is why it is a 2-year time frame in which there is a test, because I do have a concern about what you have said.

But I think overall, the balance shifts to the side of doing something, to reduce the deficit and doing something that clearly will allow Presidents to juxtapose the general interest with the narrow interest. And I think juxtaposing the narrow interest with the general interest is the real element here, because so often those provisions that are placed in the Tax Code—I can speak with chapter and verse forever—are really known only by a few people. And once they get in the Tax Code, they are never reviewed. I mean they are never reviewed.

The example I gave of the vacation home is a case in point. This was 15 or 20 years ago. A friend had a friend on the Finance Committee who had a house next to the Masters Golf Tournament, and wouldn't it be nice, I could rent my house for 2 weeks and not have to pay any income tax on the income I would derive from it, a nice big house. So, lo and behold, here in the Tax Code is a provision that says if you rent your house for 2 weeks, you do not pay any income tax on the income you derive from that.

Well, the code is larded with these kinds of things, and if you had a President who, when he got a tax bill, was able to say, you know—take Ronald Reagan in 1981—I did not support the bill, but take the case of Ronald Reagan having to get passed his tax rate cuts. He wanted to do two or three very simple things, cut tax rates, do something on depreciation and one other thing, I forget exactly what it was.

But in order to get it passed, he had to promise this person this and this person that. And here with this giant bill down to the White House had some good things in it from Ronald Reagan's perspective, cut tax rates, had a lot of bad things in it, which was this Congressman's peanuts and that Congressman's chickens and this Congressman's this, that and the other thing.

If the President had the line-item veto, he could simply say no good on the chickens, no good on the peanuts, no good on the vacation home, and then the general interest, in my view, would be served.

Senator EXON. One last question in this regard. Certainly, I do not think one person out of a thousand in America would disagree with your position on the tax expenditure, the ridiculous proposition of the vacation home that you just outlined. However, would you not agree that that is one of the more outrageous parts of the tax expenditure proposition? There are many other parts of that \$400 billion that you referenced that would not be as easily definable or as easily criticized. Would you agree with that?

Senator BRADLEY. Well, I can assure you that I think they could be identifiable. They do have very strong constituencies. I do not think the President of the United States is going to line-item veto—again, keep in mind that what we are talking about is tax

bills that go to the President. The President is not going to be able to line-item veto something that is already in there.

For example, he will not be permitted to line-item veto the mortgage interest deduction—I think he would be a little foolish to do it, anyway—or the property tax deduction, because that is already in the law. But if somebody sent him a tax bill that had new tax expenditures in it, he would have the option of line-item vetoing the new tax expenditures. So it would only be prospective, not retrospective. That means that the guy who has got his 2-week vacation home, he is home free, unless we figure a way to do that.

Senator EXON. Thank you, Senator Bradley.

Senator Domenici?

Senator DOMENICI. First, I had a chance to look at your statement. I thank you for it, and I particularly appreciate your remarks on page 3 regarding the Nunn-Domenici statement with reference to how important a line-item veto is vis-a-vis the deficit itself.

Senator something kind of permeates my mind, as we talk about these hearings today and this afternoon regarding line-item veto or expedited rescission. Incidentally, this morning I made a distinction between expedited rescission and enhanced rescission authority. With expedited rescission authority there is a very simple proposition that the President sends up rescissions and there is an expedited way mandatory in nature that we must vote on his proposals. That is expedited, and enhanced is something else. I believe ultimately from all these proposals what will pass will be an expedited rescission process, with a very, very short fuse, after he sends it up, 10 days, 15 or 20 days, and you will vote yes or no on his rescissions.

Having said that, what permeates my mind, even as I listen to you on tax expenditures, is what is the real culprit in terms of increasing deficit load on our children and the legacy that is not going to be very good for them? It turns out always to be entitlement or mandatory programs.

Since that seems to be the case, let me just give you one very concrete example. Last year, the 1993 Reconciliation Act contained \$25.4 billion in new mandatory spending over the next 5 years, entitlements. Most of these bills that are being referred to us apply only to appropriations which is already being down-scaled and tax expenditures, which I believe over the course of time have come down dramatically since you passed the reform measures. My guess is that quantitatively they are down, but the part that is up is mandatory spending.

Should we not consider adding line-item veto to a bill that has new mandatory or entitlement expenditures going to the President?

Senator BRADLEY. Let me try to draw a connection here. First, nothing has been proposed other than in this bill with regard to tax expenditures, and tax expenditures, as you pointed out, after tax reform passed in 1986, dropped. But guess what has happened?

Senator DOMENICI. It is starting up.

Senator BRADLEY. The lobbyists still work. They have come back up. They have gone up over \$100 billion in the last 6 years. It is over \$400 billion now. It is the fastest growing government spending program. It is faster than the entitlements.

I believe that if you refrain from giving the President the authority on tax expenditures, then you have missed a remarkable opportunity. And I believe that there is a connection between doing something on line-item veto with regard to appropriations and tax expenditures and the ability to do something on entitlements, and the connection is the following.

Entitlements affect broad groups of people, and that is why they are so difficult to cut, but that is also the only way you are going to make significant deficit reduction, because \$750 billion of the budget is entitlements. If you cut those broad entitlements, but you still allow the odd appropriations or tax expenditures that are going to be focused on, then the public is going to say you mean you cut my social security and medicare, you cut my farm program, but you did not do anything about that vacation home or you did not do anything about this special tax provision? You have to do something about the provisions that benefit the few, in order to do something about the provisions that benefit the many, and it is as simple as that.

Now, whether there should be in an automatic entitlement provision along with the line-item veto, I remain agonistic on. I have not thought about how it would work. I know how the line-item veto that I proposed would work. I know how I think it would pass constitutional muster. I know what a President would do every time he got a tax bill and an appropriations bill, if he was smart, if he wanted to show he was defending the taxpayer and not spending money needlessly.

I do not know how the entitlement proportion of a line-item veto would work. And since I am already biting off \$400 billion of tax expenditures, I figure I would leave the \$750 billion in entitlement spending to you or to others who are interested in that. I will take the tax expenditures and the \$300 billion or \$227 billion or \$40 billion of discretionary spending. So I will take \$700 billion of potential spending through the Tax Code and through discretionary spending and say we ought to be able to get at that with a line-item veto.

Again, I want to make the point—and you have made the point in the commission, and I simply want to reiterate it—no one should be under any illusion that the line-item veto is going to balance the budget. That is not what it is about, in my view. You will get some spending cuts. But what it is about is allowing a President to juxtapose those things that benefit the narrower interest with those things that benefit a broader constituency and a general interest.

It is a myth here, and let me have just one final version on taxes. It is a myth that if you cut tax expenditures, you are not cutting spending. The myth is that once there is a tax expenditure in the code, those of us who do not use it, who do not have the vacation house or do not produce whatever got the special tax treatment, have to pay higher taxes than we otherwise would have to pay.

That was the whole deal of tax reform, you eliminate the tax loopholes you lower everybody's tax rates. If you put tax loopholes back in, you raise the tax rates. Because you put the tax loopholes back in, they benefit only a narrow group, but in order to pay for it, everybody has got to pay higher taxes, and that is what is happening.

So it is increased spending, and I think we have to face up to that fact and I personally think that we ought to be changing the Budget Act, so that if you cut a tax expenditure, that you would have the same budget scoring as if you cut an appropriations bill, because their effect on the deficit is the same.

Senator DOMENICI. Mr. Chairman, I do not want to stay on this issue beyond the time limit, and we have got somebody else coming. But I just wanted to make the point, since the Senator is talking only about new actions. He is not talking about giving anybody any authority to go back into the bowels of existing tax law and providing a line-item veto of an existing tax expenditure or an existing tax credit or whatever it is. He is talking about new things.

Since I just happen to notice that in the reconciliation bill, while we were raising taxes, we also were raising mandatory expenditures. Although that did not catch much attention, and the balancing act was to raise taxes enough so that even when you do increase mandatory spending, you have a bottom line net that produces deficit reduction.

It turns out that you eat up even a lot of the new taxes with the new mandatory expenditures under your last analogy. I merely ask the question: For brand new ones imposed in a bill along with tax expenditures, along with line-item veto or enhanced rescission, should you not go ahead and put them all in there for some kind of executive treatment?

Senator BRADLEY. Yes.

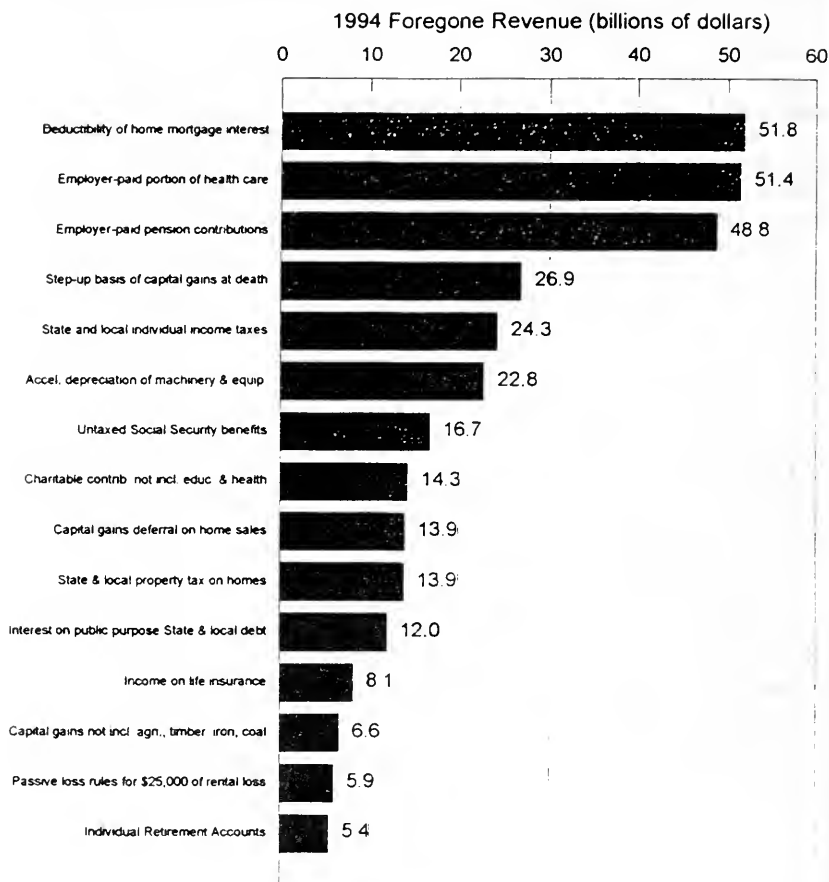
Senator DOMENICI. Thank you very much.

I would like to put in the record, just because I am concerned about not having your statements about the expenditures put into proportion, I have the 15th largest tax expenditures and I just want them to be made a part of the record.

Senator EXON. Without objection, they will be included in the record at this point.

[The information referred to follows:]

The 15 Largest Tax Expenditures



The most recent analysis of tax expenditures is in the President's 1995 budget. It shows that the five largest tax expenditures account for half of the total foregone revenue. The 15 largest account for 79% of the total foregone revenue.

Source: Bipartisan Commission on Entitlement and Tax Reform, October 4, 1994.

Senator BRADLEY. They should be, and the bulk of them will be very popular. I can tell you what they are. I will tell you the top five.

Senator DOMENICI. Tell me.

Senator BRADLEY. A little test here for a member of the Finance Committee. [Laughter.]

I would say mortgage interest, health care, property tax, inside build-up in insurance—that is four. How am I doing?

Senator DOMENICI. You only had two out of the five.

Senator BRADLEY. Depreciation, we will do depreciation.

Senator DOMENICI. I will just read them: Deductibility on home mortgage is number one, employer portion of health care is two—

Senator BRADLEY. The top two.

Senator DOMENICI. Employee-paid pension contributions.

Senator BRADLEY. That is three.

Senator DOMENICI. And stepped-up basis on capital gains at death.

Senator BRADLEY. No. [Laughter.]

Senator DOMENICI. Yes, \$26.9 billion. And State and local and individual tax.

Senator BRADLEY. You mean that we get \$26.9 billion on stepped-up basis capital gains in 1 year? I do not think so, but—

Senator DOMENICI. Well, this is from the Kerrey Commission.

Senator BRADLEY. I stand corrected. I will go back and look at it. I have kind of been up that road a lot of times on that stepped-up basis. Maybe people's property has appreciated since the last time I looked at it.

Senator DOMENICI. What I really needed was not this. I needed a list of the bottom 50, so we could put in perspective the size of it.

Senator BRADLEY. Absolutely.

Senator DOMENICI. I do not have that.

Senator BRADLEY. I might say to you that pensions is an issue that I personally am looking at in the Finance Committee, and it is a gigantic problem, a gigantic problem out there. It is the S&L crisis of the first decade of the 21st Century, and it basically flows from inadequate savings in this country. If we do not do something about it, we are going to get to 2004, in Senator Conrad's fifth term, and it is going to explode.

Senator DOMENICI. Thank you, Mr. Chairman.

Senator EXON. Thank you, Senator Domenici.

Before I recognize Senator Conrad, I would simply say that I want to highlight two things that have been brought out here. First, we alluded to this several times in our opening statements this morning when you were not here, Senator Bradley. I think we all agree completely with the fact that whatever we do in this area, enhanced rescission, line-item veto, call it what you will, it is only one relatively small peg in the overall effort that we are going to have to make to balance this budget.

I was pleased to hear you say let us not let everybody be fooled, even if we would pass everything in this area that everyone has suggested, that it is not going to solve the budget, but it is an important step in the right direction.

Second, I would simply point out, when you answered Senator Domenici, the difficulty that we have tax expenditures, one of the biggest tax expenditures is home mortgage deductions and, notwithstanding some people's suggestions that we tie into that, I would say that that is a tax expenditure that we had better be ware of, because if we went into that, it would seem to me that there would be a tremendous political outcry and, second, it could have a very disastrous effect on home ownership attainment in the United States of America, which is another way of saying that all of the tax expenditures are not necessarily bad, which is what I alluded to earlier.

Senator Conrad?

Senator CONRAD. Well, if I could just very briefly ask Senator Bradley, the concern that has been expressed repeatedly with any line-item veto, on the tax expenditure side or on the spending side, is that that is going to shift the balance of power to the President.

For example, the President might have a controversial appointment for the Supreme Court up before us, and he would be able to call up the Senator from New Jersey and say, let us put it the Senator from North Dakota, and he would be able to call me up and say, now, Senator, you have got that Garrison Diversion project, I know that is very important out in North Dakota, my staff recommends I line-item veto that. Or you might have a bridge project that is very important, or you might have some agriculture program in a State like mine that is heavily dependent on agriculture.

What is your response to that concern that a President would then be in a position to basically hold hostage any member for projects or programs that were critically important to their constituencies in order to get a vote on something else?

Senator BRADLEY. That concern was raised by Senator Exon, and as I said to him, that is the exact reason that I opposed the line-item veto for the first 12 years I was in the U.S. Senate, because I was afraid some President who had it would say, you want those operating subsidies for mass transit, well, you have got to do this nominee or the MX or whatever.

I then concluded that, on balance, those concerns were not as great as my concern on the deficit and the control of the process by narrow interests. But I took a further step to try to ameliorate my concern, any lingering concern, and that was to say what I am proposing is we try this for 2 years. Suggest we try it for 4 years, if you want. But the idea is let us see if that is the way it is going to work, and if it does not work that way for 4 years, then you could extend it for another 4 years.

If it turns out that a President is going to truly use this to blackmail people, then I think that is a dangerous shift of power to the executive branch. But if he is really going to kind of go at it to not cut a whole lot of spending, but really single out some of the really unnecessary—in other words, he will sting politicians, he will sting Congressmen and Senators from deciding we will put this in, because ultimately this might be a presidential highlight, and I think that will have a positive impact on the process.

I have done it in my State. You know, I put things in the appropriations bills that I thought were important to my State. Six years later, you say what good did that really do? It was half a million dollars or a million dollars, you issued a press release and you said there is a public purpose here, but then the bureaucracy ate up a big chunk of the money, it maybe affected a few people for 1 year, and then it disappeared in the air. And you say at the end of the day, well, what good was that really?

If there was a President who was going to raise that question after I had done something like that, I might ask myself do I really want to spend taxpayers' money to accomplish this objective. It is a slight shift, but I think we would know that after 2 to 4 years.

Let me just make one last point. There will be people coming here saying what I propose is impossible to do, you cannot enroll separately every appropriations bill or every tax expenditure. I just basically disagree. I think you could have an interesting negotiation between the White House and the Congress as to what should be under one title and what should not be under a title, after they had seen what is in the bill, and then you could end up enrolling not 10,000 things, but 20 things. I think that, clearly, if our rules are preventing this, internal Senate rules, then they ought to be subject to some review.

Senator CONRAD. I just thank Senator Bradley for what I think is a very thoughtful approach to this. I must say I find myself very attracted to the approach that you have taken.

Senator BRADLEY. Thank you very much.

Senator EXON. Senator Conrad, thank you very much.

Senator Bradley, thank you very much.

Senator BRADLEY. Mr. Chairman, thank you very much for holding these hearings. It is a pleasure to be with all of you this morning in this hearing room.

Senator EXON. Thank you very much.

I am pleased to call Senator Specter to the table. Senator Specter, like everyone else, has been placed in a difficult position with the interruption this morning. He has indicated to me that he wants just a few minutes to make a statement and enter a statement in the record. He is very pressed for time. That is good news for us, Senator Specter, because we are trying to move this thing along.

I recognize you for spending as much time with us this morning as you can.

STATEMENT OF THE HON. ARLEN SPECTER, U.S. SENATOR FROM THE STATE OF PENNSYLVANIA

Senator SPECTER. Mr. Chairman, I shall take 1 minute only. I want to put a statement and a memorandum of law I have prepared in the record.

Senator EXON. Without objection, those are included in the record, as requested.

Senator SPECTER. My submission is that the President currently has the constitutional authority to exercise the line-item veto on the basis of the key clause in the U.S. Constitution, article I, section 7, clause 3, which was copied from the Massachusetts Constitution and duplicated in other State constitutions, under which the chief executive officers of those States exercise the line-item veto.

I am trying to get out of the Judiciary Committee a resolution calling on the President to exercise the line-item veto, on the basis that there is at least enough authority to take it to court and really enough authority for him to do it.

Mr. Chairman, I yield back the balance of my time.

Senator EXON. I thank you very much, Senator Specter. Your materials will be included in the record. We appreciate your input and help on this and know of your keen interest.

If we can solve it or at least begin to solve it along the lines that you suggest, that is one other avenue I think we should pursue.

Senator SPECTER. Thank you very much.

Senator DOMENICI. Thank you very much, Senator Specter.

[The prepared statement of Senator Specter follows:]

PREPARED STATEMENT OF SENATOR SPECTER

Mr. Chairman, I have long supported a line-item veto for the President, I have proposed constitutional amendments to grant the President such authority, and I have supported statutory enhanced rescission authority.

As these measures have failed, after extensive legal research and analysis, I now urge the President to exercise the line-item veto without further legislative action. I do so because I believe, after a careful review of the historical record, that the President already has the authority under the Constitution to veto individual items of appropriation in an appropriations bill and that neither an amendment to the Constitution nor legislation granting enhanced rescission authority is necessary.

The line-item veto would be effective in helping to reduce the huge deficit that now burdens our country. While alone it is no panacea, its use would enable the President to veto specific items of appropriation in large spending bills, thereby restraining some of the pork-barrel or purely local projects that creep into every appropriations bill. With the broad national interest rather than purely local concerns at work, the President's use of the line-item veto would cut significant amounts of this type of spending.

The line-item veto would also have a salutary effect on Members of Congress. Knowing that their attempts to insert items into appropriations bills will be subjected to presidential scrutiny, Members are likely to become more reluctant to seek special favors for the home district at the expense of the Nation at large. While such discretionary programs and earmarks do not account for a large part of Federal spending, getting control over them will improve the authorization and appropriations process. The President could use the veto to eliminate funding for unauthorized programs. Such a message would motivate Congress to reauthorize programs with regularity, improving our oversight and the effectiveness of the government.

The line-item veto is not a partisan issue. It is a good government issue. Many Democrats support the line-item veto; some Republicans oppose it. As a candidate in 1992, Bill Clinton firmly embraced the line-item veto. As President, he has the opportunity to make effective use of it to help control in some small measure the deficits we accumulate. By exercising this option, the President can provide a check on unfettered spending and carve away many of the pork-barrel projects contained in both versions of the budget that serve primarily private, not national interests.

Beyond the specific savings, the presence and use of the line-item veto by the President could give the public assurances that tax dollars were not being wasted. Each year the media reports many instances of Congressional expenditures which border, if in fact they do not pass, the frivolous. Those expenditures are made because of the impracticality of having the President veto an entire appropriations bill or sometimes a continuing resolution. That creates a general impression that public funds are routinely wasted by the Congress.

The line-item veto could eliminate such waste and help to dispel that notion. The resentment to taxes is obviously much less when the public does not feel the monies are being wasted. Notwithstanding the so called taxpayers' revolts in some States, there is still a willingness by the citizenry to approve taxes for specific items where the taxpayers believe the funds are being spent for a useful purpose. The line-item veto could be a significant factor in improving such public confidence in governmental spending even beyond the specific savings.

I now turn to the basis for my position that the President already has authority under the Constitution to exercise the line-item veto, without a need for additional constitutional or statutory legislation.

The constitutional basis for the President's exercise of a line-item veto is found in article I, section 7, clause 3 of the Constitution. Clause 2 of article I, section 7 provides the executive the authority to veto "bills" in their entirety. The question of conferring on the President the power to veto specific items within a bill appears not to have been discussed at the Constitutional Convention. During the drafting of the Constitution, however, James Madison expressed his concern that Congress might try to get around the President's veto power by labeling "bills" by some other term. In response to Madison's concern, Edmund Randolph proposed and the Convention adopted the third clause of article I, section 7, whose language was taken directly from a provision of the Massachusetts Constitution of 1780.

Clause 3 of article I, section 7 provides that in addition to bills (the veto of which is set forth in clause 2),

Every Order, Resolution, or Vote to which the Concurrence of the Senate and House of Representatives may be necessary (except on a question of adjournment) shall be presented to the President of the United States; and before the same shall take Effect, shall be approved by him, or being disapproved by him, shall be repassed by two thirds of the Senate and House of Representatives, according to the Rules and Limitations prescribed in the case of a Bill.

While the clause does not explicitly set out the executive authority to veto individual items of appropriations, the context and practice are evidence that that was its purpose. According to noted historian Professor Forrest McDonald of the University of Alabama, the clause was taken directly from a provision of the Massachusetts Constitution in 1780. In his article entitled "The Framers' Conception of the Veto Power", published in the monograph *Pork Barrels and Principles: The Politics of the Presidential Veto 1-7* (1988), Professor McDonald explains that this provision dates back to the State's fundamental charter of 1733 and was implemented specifically to give the royal Governor a check on the unbridled spending of the colonial legislature, which had put the colony in serious debt by avoiding the governor's veto power by appropriating money through "votes" rather than through legislation.

Professor McDonald also points out that at the time of the Constitution's ratification process, anti-Federalist pamphleteers opposed the proposed Constitution and in particular clause 3 of article I, section 7, precisely because it "made too strong a line-item veto in the hands of the President."

Federalists, on the other hand, saw clause 3 and the power to veto individual items of appropriation as an important executive privilege—one that was essential in assuring fiscal responsibility while also comporting with the delicate balance of power they were seeking to achieve. For example, during his State's ratification convention, James Bowdoin, the Federalist governor of Massachusetts, argued that the veto power conferred to the President in the Federal Constitution was to be read in light of the Massachusetts experience under which, as I have already noted, the governor had enjoyed the right to veto or reduce by line-item since 1733.

In *The Federalist* No. 69, Alexander Hamilton, a member of the Constitutional Convention who was soon to become the first Secretary of the Treasury, wrote that the constitutional veto power "tallies exactly with the revisionary authority of the council of revision" in New York, which, according to Professor McDonald, had the power to revise appropriations bills, not merely accept or reject legislative enactments in their entirety. This power was not unique to New York, as the Governors of Massachusetts, Georgia, and Vermont (soon to be the first new State admitted to the new union) also enjoyed revisionary authority over legislative appropriations.

As many of my colleagues know, our distinguished colleague from West Virginia, the Chairman of the Appropriations Committee, has made a series of speeches on the Senate floor drawing on his vast knowledge about the historical underpinnings of our republican form of government and on the framers' rationale for the checks and balances they created. His review of Roman history is apt, because, as he knows, the framers were acutely aware of Roman history. This awareness helped them develop their government of limited powers and of checks and balances. The framers knew that the vice of faction, the desire to pursue one's private interest at the expense of the public interest, had helped bring on the downfall of the Roman Republic. Madison and others were convinced that by diffusing power and balancing it off in different branches of government, we might avoid to the fullest extent possible, the defects of faction.

In another sense, however, the distinguished Chairman of the Appropriations Committee, overlooks the fundamental differences between Rome's ancient government and ours. In ours, the people have a direct say. In Rome's the male citizens had a limited, indirect say, but mostly the ruling class was hereditary or was based on wealth. We have a democracy; Rome did not.

This fundamental difference between our Nation and ancient Rome means that there are more factions with which our government must contend. With so many different factions, or "interest groups" as we call them today, it is much easier for one of them to "capture" a single Member of Congress to advance its cause and to fund it. Each representative has a much narrower focus than a Senator, each of whom has a narrower focus than the President. Thus, Congress is more susceptible to pressure from factions, as one member who wants a favor for a particular faction trades his or her support for another member's preferred faction. We all know that this appropriations log-rolling occurs. Ultimately, the President is presented with one large spending bill, much of which reflects the political horse-trading that occurs.

The line-item veto sheds light on the power of private interests that seek to use the appropriations process for their own private benefit. By excising line items and making Congress vote on them individually in an effort to override the veto, the President can shed light directly on these private interests and force members to be accountable to their constituents by voting on the projects identified by the President as unnecessary and wasteful.

Some, like the distinguished Chairman of the Appropriations Committee, contend that the line-item veto would result in an intolerable shift of power from Congress to the Executive. To this argument, I have two responses. The first is that, as I believe I show, the framers of the Constitution intended that the President have the authority to veto individual items of appropriations. Thus, in their concept, the line-item veto does not offend the balance of powers.

The second response is related to the entire structure of the government. The Constitution places the power of the purse in the hands of Congress. It is a peculiarly legislative function to decide how much money to spend and how to allocate these expenditures. In this regard, however, spending is no different than any other legislative function. Thus, there is no reason to consider the line-item veto any more of an infringement of the separation of powers than the President's ability to veto bills at all. Hamilton recognized the structural importance of the veto in *The Federalist* 73, when he wrote that the veto provides "an additional security against the enactment of improper laws . . . to guard the community against the effects of faction, precipitancy, or of any impulse unfriendly to the public good, which may happen to influence a majority of [the legislative] body" from time to time. The framers were acutely aware that it is the legislative branch that is most susceptible to factional influence. Thus, they understood that the veto served a critical role.

But, opponents of the line-item veto argue, Hamilton's point went to bills as a whole, and not simply pieces of them. The legislative process necessarily on horse-trading to get things done, and nowhere is such trading more important than in the appropriations process. This response, while acknowledging the reality, is an answer that directly contradicts the framers' intent and leads to bad government, for it accepts the premise that factions and the prominent Members of Congress who support their causes must be bought off with goodies in appropriations bills. But that is precisely the evil that the framers sought to insulate against with the veto.

Given the role of factions in the appropriation process, the use of the line-item veto is completely consistent with the framers' conception of the veto power. Indeed, that is not surprising, as the framers believed they had granted the President a line-item veto. Despite the arguments of the distinguished Chairman of the Appropriations Committee to the contrary, the line-item veto was not only intended by the framers but is an appropriate limitation on congressional authority to combat the force of faction.

This process would not surprise the framers of the Constitution. Madison and the others who met in Philadelphia in 1787 were not just knowledgeable about history. They were practical men of affairs and politics who understood human nature. They knew the dangers of faction and the likelihood that faction would influence Congress more so than the President, who is responsible to the entire Nation, not a single district or State.

Thus, it is only to be expected that the framers provided Congress with the power to appropriate funds, tempered with executive authority to line-item veto as a means of expunging special interest spending was their resolution, and history bears this out. The line-item veto is entirely consistent with the framers' conception of government and the dangers of faction.

Shortly after the new Federal Constitution was ratified, several States, including Georgia, Vermont, Kentucky, and my home State of Pennsylvania, rewrote their constitutions to conform with the Federal one and specifically incorporated language to give to their executives the authority to exercise a line-item veto. These States were in addition to the States like Massachusetts and New York, where the governor's power to revise items of appropriation was well-established. For example, article II, section 10 of the Georgia Constitution of 1789 gave the governor power of "revision of all bills" subject to a two-thirds vote of the general assembly. Section 16 of chapter II of the Vermont Constitution of 1793 vested in the governor and council the right to revise legislation or to propose amendments to the legislature, which would have to adopt the proposed amendments if the bill were to be enacted. Article I of the Kentucky Constitution of 1792 and section 23 of article I of the Pennsylvania Constitution of 1790 tracked the language of article I, section 7, clause 3 of the new United States Constitution.

The chief executives of both the State and new Federal governments immediately employed the line-item veto. On the national level, the early practice was one in which the President viewed appropriations as permissive rather than mandatory.

President Washington and his Treasury Secretary Hamilton assumed the authority to shift appropriated funds from one account to another. Although his party had at one time opposed such transfers, once he became President, Republican Thomas Jefferson also embraced the practice, and at least on two occasions, he refused to spend money that the Congress had appropriated.

The practice continued. As late as 1830, President Andrew Jackson declined to enforce provisions of a congressional enactment. Likewise in 1842, President John Tyler signed a bill that he refused to execute in full. It was not until after the Civil War that a President assumed he did not already have the authority to veto individual items of appropriation, when President Grant urged the Congress to grant him such authority.

But President Grant's view was anomalous. The framers' understanding and their original intent was that the Constitution did provide the authority to veto or impound specific items of appropriations. The States understood that to be the case, and many in fact embraced the Federal model as a means of providing their own executives this same authority.

I believe that the evidence strongly supports the position that under the Constitution the President has the authority to employ the line-item veto. At the very least, the President's use of the line-item veto will almost certainly engender a court challenge if the veto is not overridden. The courts will then decide whether the Constitution authorizes the line-item veto. If they find it does, then the matter will be settled. If they find it does not, then Congress may revisit the issue and decide whether to amend the Constitution or grant statutory enhanced rescission authority to the President.

In conclusion, I urge the President to employ the line-item veto if he is seriously committed to deficit reduction. As I have argued here today, the authority to exercise this power is not dependent on the adoption of a constitutional amendment or any additional legislation; it already exists. The framers' intent and the historical practice of the first Presidents serve as ample evidence that the Constitution confers to the executive the authority to line-item veto. Given President Clinton's use of the line-item veto as governor and his support of it as a candidate, I urge him to act on that authority consistent with his rightful power to do so.

I ask unanimous consent that a copy of a memorandum I have prepared summarizing my research into the framers' intent to establish a line-item veto and the early national practice be included in the record at the conclusion of my remarks.

Memorandum

Re: Presidential authority to exercise a line-item veto

The President currently enjoys the authority under the Constitution to exercise a line-item veto without any additional constitutional or statutory authority. The constitutional basis for the President's exercise of a line-item veto is to be found in article I, section 7, clause 3 of the Constitution.

The first article of the Constitution vests legislative authority in the two Houses of Congress established thereunder. Clause 2 of section 7 of the first article provides the presidential authority and procedure to veto "bills". This is the basis for the President's clearly established authority to veto legislation. The provision also established the procedure under which Congress may override the President's veto.

The question of conferring authority on the President to veto specific items within a bill was not discussed at the Constitutional Convention. During the drafting of the Constitution in 1787, however, James Madison noted in his subsequently published diary that he had expressed his concern that Congress might try to get around the President's veto power by labeling "bills" by some other term. In response to Madison's concern and in order to guard the President's veto authority from encroachment or being undermined and preserve the careful balance of power it sought to establish, Edmund Randolph of Virginia proposed and the Convention adopted language from the Massachusetts Constitution which became article I, section 7, clause 3.

This clause requires that in addition to bills:

Every Order, Resolution, or Vote to which the Concurrence of the Senate and House of Representatives may be necessary (except on a question of Adjournment) shall be presented to the President of the United States; and before the Same shall take Effect, shall be approved by him, or being disapproved by him, shall be repassed by two thirds of the Senate and House of Representatives, according to the Rules and Limitations prescribed in the Case of a Bill [these being set forth in article I, section 7, clause 2].

In combination with the preceding clause 2 of section 7, this third clause gives the President the authority to veto any legislative adoption of Congress, subject to congressional override.

The historical context of its adoption supports the position that clause 3 vests the President with authority to veto individual items of appropriation.

According to the noted historian Professor Forrest McDonald in his paper "The Framers' Conception of the Veto Power", published in *Pork Barrels and Principles: The Politics of the Presidential Veto* 1-7 (1988), clause 3 was taken directly from a provision of the Massachusetts Constitution of 1780. This provision set in the State's fundamental charter Massachusetts law dating to 1733 first implemented to give the Royal Governor a check on unbridled spending by the colonial legislature, which had put the colony in serious debt by avoiding the governor's veto power by appropriating money through "votes" rather than legislation. Professor McDonald has also noted in an op-ed article published in the *Wall Street Journal*, that the agents of the King of England could disapprove or alter colonial legislative enactments "in any part thereof."

Discussion and debate at the Constitutional Convention over the meaning of clause 3 was scant. In his notes of the proceedings of the Convention, our main source for the intent of the Framers of our fundamental Charter, Madison noted only that Roger Sherman of Connecticut "thought [article I, section 7, clause 3] unnecessary, except as to votes taking money out of the Treasury." No other member of the Convention appears to have discussed the clause. Sherman's comment was important, as it demonstrates the context in which the Framers saw the newly added provision: it was needed *only* insofar as it pertained to votes appropriating money from the Treasury. Perhaps discussion was so scant because the meaning of the clause was clear to the Framers.

In his 1988 article, Professor McDonald notes that two Anti-Federalist pamphleteers opposed the proposed Constitution in part because article I, section 7, clause 3 "made too strong a line-item veto in the hands of the President". The Federalist Governor of Massachusetts, James Bowdoin, argued during the Massachusetts ratifying convention that the veto power was to be read in light of the Massachusetts experience in which, as noted, the line-item veto was exercised by the governor. In *The Federalist* No. 69, Alexander Hamilton wrote that the constitutional veto power "tallies exactly with the revisionary authority of the council of revision" in New York, which, according to Professor McDonald, had the power to revise appropriations bills, not merely turn down the entire legislative enactment. Massachusetts, Georgia, and Vermont also gave their executives revisionary authority over legislative appropriations.

Roger Sherman's comment was prescient, as he focused on the issue confronting us over 200 years later. The language of clause 3 has proven to be redundant, as Congress has not attempted to avoid the structures of the second clause. But clause 3 is not superfluous as regards, in Sherman's language, "votes taking money out of the Treasury." In order to give effect to this provision, the President must have the authority to separate out different items from a single appropriation bill and veto one or more of those individual items.

This reading is consistent with the early national practice, under which Presidents viewed appropriations as permissive rather than mandatory. President Washington and his Treasury Secretary, Alexander Hamilton, assumed that the President had the authority to shift appropriated funds from one account to another. The former Anti-Federalist, having become the Republican party, objected to these transfers. Once a Republican, Thomas Jefferson, became President, however, he too considered appropriations bills to be permissive and refused on at least two occasions to spend money that had been appropriated by Congress.

Professor McDonald points out in his 1988 article that shortly after the new Federal Constitution was ratified, several of the States rewrote their constitutions to conform their basic charter to the Federal one. The contemporaneous experience of these States is highly relevant to the Framers' understanding of the text they had devised. Several States adopted new constitutions in 1789 or the early 1790's. Of these, Georgia and Pennsylvania, and the new States of Vermont and Kentucky all adopted constitutions that included the phrasing of article I, section 7 to enable their governors to exercise the line-item veto.

According to a 1984 report of the Committee on the Budget of the House of Representatives, *The Line-Item Veto: An Appraisal*, the practice at the national level of the President's exercise of a line-item veto continued. President Andrew Jackson declined, over congressional objection, to enforce provisions of a congressional enactment in 1830. In 1842, President John Tyler signed a bill that he refused to execute in full. Instead, he advised Congress that he had deposited with the Secretary of

State "an exposition of my reason for giving [the bill] my sanction." Congress issued a report challenging the legality of the President's action.

Professor McDonald noted that between 1844 and 1859, three northern States, responding to fiscal problems, adopted constitutions explicitly providing their governors with power to veto individual items of appropriation. Building on this history, the provisional Constitution of the Confederate States of America also made explicit that the President of the Confederacy had line-item veto authority.

It was only after the Civil War that President Grant suggested that he did not already enjoy the authority to veto individual items of appropriation and other specific riders to legislation and urged that he be granted such authority. President Grant's position that he did not enjoy a line-item veto under the Constitution was directly contradictory to the original understanding of the Constitution, a position endorsed by Presidents Washington, Jefferson, Jackson, and Tyler through usage. It ignored the original understanding of the Framers of the Constitution and the historical context in which that document was drafted. Proposals for a Federal line-item veto have been made intermittently since the Grant administration.

An alternative argument based on the language of article I, section 7, clause 2, but consistent with the original understanding of the veto power, has also been made to support the President's exercise of a line-item veto. In discussing why the issue of a line-item veto was not raised during the Constitutional Convention, Professor Russell Ross of the University of Iowa and former United States Representative Fred Schwengel wrote in an article "An Item Veto for the President?", 12 *Presidential Studies Quarterly* 66 (1982), "[i]t is at least possible that this subject was not raised because those attending the Convention gave the term 'bill' a much narrower construction than has since been applied to the term. It may have been envisioned that a bill would be concerned with only one specific subject and that subject would be clearly stated in the title."

Professor Ross and Mr. Schwengel quote at length the former Chairman of the House Judiciary Committee, Hatton W. Sumners, who defended this view in a 1937 letter to the Speaker of the House that was reprinted in the *Congressional Record* on February 27, 1942. Chairman Sumners was of the view that the term "bill" as used in clause 2 of section 7 of the first article was intended to be narrowly to refer to "items which might have been the subject matter of separate bills." This reading he thought most consistent with the purpose and plan of the Constitution. Thus, Chairman Sumners believed that clause 2, as originally intended, could also be relied upon to vest line-item veto authority in the President.

Chairman Sumners's reading is also consistent with the practice in some of the colonies. Professor McDonald cites to the Maryland constitution of 1776, which expressly provided that any enacted bill could have only one subject. Several other States followed Maryland during the succeeding decades and limited legislative enactments to a single subject.

A review of the contemporary understanding of the veto provisions of the Constitution when drafted supports the view that the President currently enjoys line-item veto authority, which several Presidents have exercised.

Senator EXON. Our next scheduled witness is Senator McCain. Is Senator McCain here? Senator McCain is not present, and we will move on to Senator Craig.

Senator Craig, welcome. We are very glad to have you. Your full statement as submitted, if you have submitted one, is included in the record at this time, without objection. Please proceed in any fashion that you see fit.

STATEMENT OF THE HON. LARRY E. CRAIG, U.S. SENATOR FROM THE STATE OF IDAHO

Senator CRAIG. Mr. Chairman, thank you very much. Let me thank you and also Chairman Sasser for agreeing to these hearings. We think they are timely. Of course, it is always a privilege to come before Senator Domenici. I have tremendously respected your leadership on these kinds of issues over the years, Senator, and your farsightedness to try to get out in front of concerns that the public has as it relates to the budget process.

Mr. Chairman, what I would like to do this morning is summarize for you a piece of legislation that Senator Campbell and I in-

troduced on September 23 that you became a cosponsor of, along with Senator Grassley, Senator Nickles, Senator Lott, Senator Brown and Senator Gorton. This is known as the Common Sense Budget Reform Act of 1994.

I do want to mention all the reforms within that Act briefly, and then focus specifically on the line-item veto expedited rescission.

Senator EXON. Senator Graig, let me ask you a question just for the record, and I think I am correct. This measure has passed the House of Representatives, is that correct?

Senator CRAIG. It has. Three of the four reforms in the total package which now represents S. 2458 have passed the House. When I talk about those reforms, I am talking about baseline budgeting reform, I am talking about what is known as a lockbox or guarantee that a cut is a cut when we pass a spending cut amendment, in other words that it does not move into another portion of the budget, that it moves against the deficit, and the expedited rescission. Those three items have passed the House by large majorities.

Keeping emergency appropriations clean of non-emergency items is the last item in the total package that is embodied in the bill that I am here to present to you that has not passed the House.

Of the three principles and the three reasons I think that are the strongest for this Senate to look at in expedited rescission, probably the greatest of them all and the one that has driven the whole issue historically is the issue of fiscal responsibility.

According to GAO, Mr. Chairman, since 1974, Presidents have requested 1,019 individual rescissions of appropriations. Congress has approved 354 of them, or about 34.5 percent of these, accounting for 30 percent of the dollar volume of the proposed rescissions. Excluding 1981, Congress has approved less than 20 percent of the dollar volume of rescissions proposed by Presidents. Congress has simply ignore about \$48 billion in rescissions proposed under Title X of the 1974 Budget Act, refusing to take a vote on their merits.

Alone, an expedited rescission process is not going to go far enough to balance the Federal budget. After all, it would only apply to appropriations, but it is routinely estimated by a variety of interest groups who have studied this issue that an additional \$10 million a year would be saved by this process.

Now, how would it be saved? Does it mean that the President would actually move to rescind \$10 billion annually? No, it is a combination of a variety of dynamics that is set in place by having the line-item veto or a modified rescission. After room for inflationary adjustment, if I can paraphrase Ev Dirksen, you know, \$10 billion here and \$10 billion there, and pretty soon that adds up to be real money.

On the tax side, public cynicism regarding Congress has grown with increased attention to provisions hidden away in large tax bills which benefit narrow interests or special constituencies. For example, in H.R. 11, passed late in 1992, but vetoed, there were 50 special tax provisions that cost more than the enterprize zones that were proposed to be the centerpiece of the bill. In other words, we have become very good at being very artful about what we do around here.

We have all heard the horror stories about tax breaks that benefit one sports stadium or one wealthy family or one large corporation, and our constituencies have heard about them as loudly as we have, because they are the ones that have ultimately told us about them.

It would improve legislative accountability and produce a more thoughtful process, and that is probably the second greatest initiative or reason to pass a line-item veto or a modified rescission approach. An expedited rescission would cast an additional dose of sunlight into the legislative process.

All too often, large bills including individual items that would never stand public scrutiny, that has always been the fundamental argument behind this kind of an approach, and it is an important argument. We are all very familiar with the rush to get the legislative train out on time. That means bills are reported spanning hundreds of pages that virtually no one has been able to read except ultimately the staff that has put it together. But there is no doubt that, given this tool, there is a stronger chance that all bills would be read in great detail and the 13 regular bills that we would move out in the normal course of business I think are going to receive a greater amount of attention by all parties involved.

Knowing that an individual provision may have to be returned to Congress one more time, to stand on its own merits, will promote more responsible legislation I think in the first instance, and that is what we are all about, and I think that is what this committee represents and what all of us talk about budget reform represent.

The third item, it would improve executive accountability. Now, while we are talking about legislative accountability and budget process accountability, this responsibility is worn by two parties of our government, both the legislative and, as importantly, the executive. There is always some concern that any form of line-item veto or expedited rescission process would transfer too much power from the Congress to the President. Of course, that is the age-old argument and that is probably why we have denied the executive this tool and ourselves this tool historically.

Those of us on both sides of the aisle have suggested at different times that Presidents are not always serious about the rescission message they send to Congress or that the volume of rescissions they propose do not live up to their own talk about what they would do if they had the line-item veto.

Well, Mr. Chairman, I think it is time that we call any President's bluff, and I mean every President, because I see this as a bipartisan issue. I think the package I have before you and the cosponsorship speaks very clearly to that bipartisanship.

Without question, in the House, the vote in the House was very bipartisan, and the cosponsorship of all of those items, the House leadership has made every effort to make it a very bipartisan approach. So it has no margin, in my opinion, for the argument of partisanship, and it should not be.

In particular, in our bill, we give the President a chance to designate how much of his or her rescission savings would apply to the deficit. In other words, we are clearly giving them that option. We heard the argument from this President some time ago that he

would like to rescind or veto one item, only to have the money spent somewhere else. Of course, that is the prerogative of any executive, but we would give them the option through the use of what is called a lockbox or deficit reduction account to say we are recommending rescission and that dollars go in X places.

Senator EXON. In other words, if I understand you correctly, Senator Craig, what you are saying is that you are giving the President that leeway, so the President could, if he wanted, to exercise the veto and put it in the lockbox either totally or partially, or, on the other hand, he could say I do not want any of it to go in the lockbox, I want to spend it on X, Y and Z, is that right?

Senator CRAIG. That is right. We accomplish several things by that, but, most importantly, we spotlight it and we place different parameters on the argument. If the President says no, I am rescinding and all of this ought to go against deficit reduction, he or she can argue a reduction in total expenditure, or he or she could argue the priority as to their legislative package, and they would seek different priorities than the Congress did in the appropriations. Of course, that is the intent of being able to do that.

The main provisions of our expedited rescission reforms clearly are as follows: The President could propose to rescind any appropriation budget authority at any time and designate whether that rescission is to be expedited. Some other proposals give the President a deadline of up to a few days after enactment of the appropriation.

Ours is within 10 days of enactment of the tax bill, the President may propose repeal of any narrowly targeted tax benefit in that bill and receive expedited consideration. The President may designate that some or all of the savings from expedited rescission be set aside elusively for deficit reduction. Within 3-legislative days of the President's transmission of a rescission bill comprising his request would be introduced in the House.

The House Appropriations and/or Ways and Means Committees would have 7-legislative days to report the bill, with or without recommendation, or to be discharged. The House must vote on final passage within 10-legislative days of the bill's introduction, with debate limited to 4 hours.

If passed by the House, the bill would be transmitted to the Senate within 1-calendar day. The Senate Appropriations and/or Finance Committees would have 7-legislative days to report the bill, with or without recommendation, or be discharged. Senate debate would be limited to 10 hours. Two additional features in our bill stand out: First, the process would be self-enforcing, because the particular item would be considered rescinded or repealed, unless Congress completed the process and defeated the President's proposal by a majority vote.

Second, no amendment would be allowed, except for striking an individual item proposed by the President. A motion to strike would only be allowed, if supported by 50 members in the House and 15 in the Senate. This feature preserves some degree of legislative flexibility that has been a criticism by some on this issue. And the President's entire rescission package will not go down, just because one spending or tax item had strong congressional support.

In conclusion, Mr. Chairman, by July of this year, the CRS had identified some 36 bills introduced in Congress dealing with some version of line-item veto. While there are differences, all move in basically the same direction. The House has passed an expedited rescission bill three times in the last 3 years, each time with large bipartisan majorities. Three times in this Congress, a majority have voted for the basic concept, and large bipartisan majorities have approved sense of the Senate amendments to that effect on two occasions.

I believe that a package like the common sense bill can and should become law no later than early next year. To end, I certainly look forward to working with this committee in the weeks and the year ahead to see if we cannot iron out the differences and the details, Mr. Chairman, because I think this is an issue whose time has come. The American people are speaking loudly to it, and finally I believe Congress, by this hearing and by the actions of the House, is beginning to focus on this and other issues that would bring about the kind of budget reform that all of us want and ultimately we have got to provide for ourselves and the American people.

Having said that, Mr. Chairman, I would be happy to respond to any questions you might have.

Senator EXON. I just have a question or two. First, I take it that you would agree, and I believe that some of the suggestions in your bill and the one sent over to us by the House, the three parts of it at least that I am a cosponsor of would very likely in some cases require a change of the rules in the Senate. Obviously, if something like this comes up, the first bridge that we would have to cross is to get 60 votes to stop a filibuster, which is very unlikely. Is it true, in your opinion, Senator Craig, that this bill, since it in my opinion changes Senate rules, would require 57 votes in some instances?

Senator CRAIG. I believe that to be right in some instances. There is no question that it creates a different dynamic, and they need a different dynamic, because of the specifics. Although we have done that in the past, we set aside separate issues that are extraordinarily important of expedited activity that are exempt from filibuster or cloture.

Clearly, once we have walked through our process in the presentation of the budget and it has had its normal course of action on the floor and it has given the membership full access to it—and I think I would certainly guard that right, as most Senators would—we are talking about an extraordinary step in a new process that is time sensitive and deserves to be time sensitive. If you are going to give this the real effect that it has and create the dynamics both in the executive and the legislative branches that expedited rescission ought to have, both in limiting our actions and being more direct in what we do and causing the President to take this as a truly serious effort, then you have got to create those kinds of dynamics.

Senator EXON. Thank you very much, Senator Craig. I have no further questions. I just want to compliment you for your leadership and initiative and the fact that you are here today testifying on this legislation. Obviously, we are not going to be able to do

anything this year, but we are trying to lay the groundwork for some expedited action hopefully early in the next session.

Senator CRAIG. Thank you.

Senator EXON. Thank you very much for being here.

Senator DOMENICI?

Senator DOMENICI. Senator, first I want to compliment you on your leadership not only in this matter that is before us today, but obviously the balanced budget and its concept and probably in the way it has finally evolved under your leadership is close to the best balanced budget constitutional amendment language that has ever been prepared, and I compliment you on that. I thank you for working with us on that. It was my privilege.

Let me ask first a couple of general questions, if I could. It would appear to me that, as I said in my opening remarks, this is very serious business that we are talking about when we talk about expedited rescission or line-item veto. Clearly, you can see a lot of opportunities for Presidents to play games with this. I was not in favor for quite some time of the line-item veto, because I worried about that. I still worry about that.

Would you not agree that, whatever we try, we ought to sunset it, so that we do have just a trial period and we do not have a President sitting there with a pen ready to veto any change that we try to make, make it 4 years or 2 years or 6 years, so we take a good look at how it works?

Senator CRAIG. Well, Senator, if that is how we get there, yes, I would support that. And I think the dynamics we have put in place, as I expressed in my comments before this committee, serve both bodies well, ultimately, that it is not a one-sided effort when we talk about line-item veto.

Senator DOMENICI. Yes.

Senator CRAIG. And so I have no problem with sun-setting. I have no problem with saying that what we do is good enough that in 4 years, it will stand the test and we will want to reauthorize it or make it permanent law.

Senator DOMENICI. Well, you were speaking of leverage.

Senator CRAIG. Yes.

Senator DOMENICI. And I would think sunset would be leverage against the arbitrariness of the President.

Senator CRAIG. Sure.

Senator DOMENICI. Because he could clearly understand that if he played games with it, sunset would put it out and we would never get it again.

Senator CRAIG. That is right.

Senator DOMENICI. On the other hand, if it worked right, we would pass it again and he would sign it. Otherwise, he has the hammer because you cannot ever repeal the thing without him having to sign it. And so you go back to the two-thirds overriding a veto. So I think maybe that has some merit.

Second, expedited rescission, I expressed in my opening remarks as probably the most logical approach and the thing that would probably become law soonest and probably have the greatest opportunity to get through here.

You have spoken of it a number of times in your remarks. Is expedited rescission, as you see it, a mechanism for getting a Presi-

dent's rescission package an up or down vote in an expedited manner within a reasonable period of time; is that essentially it?

Senator CRAIG. Yes, it is. And in our bill, we lay out that format for both the House and the Senate, and time certain for direct action on it.

Senator DOMENICI. I have a question about one other part of your package. As you recall, very early on, on the floor of the Senate, as Senators took on an appropriation bill and said let's take out part of NASA, I think you heard me take to the floor and, in addition, tell Republicans in our conference, that when you vote for that, you were voting to cut NASA but you were not voting to cut the budget. And that is because the caps govern, not the cuts.

So that if you take out \$22 billion for NASA over 5 years, that \$22 billion will be spent somewhere else under the existing domestic expenditure caps, domestic and defense. Are you trying to address that issue in a generic way in your legislation so that if you do that, the cuts will go against the deficit?

Senator CRAIG. Yes, we are.

Senator DOMENICI. How do you do that? Just briefly explain that to me.

Senator CRAIG. We create a lock box mechanism. A technicality in the 1990 Budget Enforcement Act prevents us from doing so unless we get the 60 votes, as you know, to waive a point of order.

Senator DOMENICI. Correct.

Senator CRAIG. In dealing with that, it was unforeseen and unintentional what we have accomplished here. And to ensure that spending cut amendments have their intended effect, that a cut is really a cut, our bill would, number one, allow a floor amendment to designate that all or some of the savings from a specific spending cut be directed to deficit reduction by placing it in a deficit reduction account or lock box, as you will.

And we give the President the same right in his recommendations or his rescissions to say: I would like this to go elsewhere; I would like this to go against deficit reduction.

And we also would ensure that savings from spending cuts actually go to deficit reduction by automatically adjusting the overall discretionary spending caps accordingly.

Senator DOMENICI. But in each of those instances, what you have really done is get rid of the 60-vote point of order so you can do it by majority vote?

Senator CRAIG. That is correct.

Senator DOMENICI. But it would be an individual case, affirmative act by the Congress?

Senator CRAIG. That is right.

Senator DOMENICI. So if in a case of a big NASA cut, nothing occurred with reference to your lock box, then essentially that would merely be a cut in NASA and not a cut in the budget?

Senator CRAIG. That is right.

Senator DOMENICI. All right. Thank you very much.

Senator EXON. Let me clarify that just one step further. I asked you earlier, Senator Craig, and you answered in the positive that the President would be allowed to either—a \$1 billion cut, for example, the President could say: And I want half of that to go to

deficit reduction and \$500 million of it to go to program X, Y or Z.

Are you saying that, in answer to Senator Domenici's question, that while the President could so instruct and express his wishes, that when this matter is sent to the Congress, that the Congress would have final authority on saying whether any or all of that money should go into the secure box, or none of it?

Senator CRAIG. Now we are getting technical beyond my technical expertise.

Senator EXON. In other words, if I understand you right, while the President would have that option, at the same time, from a practical standpoint, the Congress would make the final decision by majority vote as to whether any and all of us should go into the secure box or not; is that right?

Senator CRAIG. That is right. Why we have allowed, both of us, this option, obviously on a cut-is-a-cut approach, as Senator Domenici has laid out, we clearly designate or give the Congress the right to do that so that a cut actually does become a cut.

In the instance of the President, I use the term "spotlighting." It gives the President—

Senator EXON. So the President is recommending that we would make the determination?

Senator CRAIG. Exactly. And the President, you give him a little power there because you give him the power of the bully pulpit to say I am doing this and this I want to go against deficit reduction, and I want this to go over in this other area of spending that I think is a priority under my legislative package.

And then the Congress, in essence, can debate him on this issue as to where the priorities of spending go. But in deficit reduction, that is a pretty powerful argument. If the President says: I have just vetoed \$10 billion, collectively, and I want \$5 billion of it to go to deficit reduction and the Congress refuses to give me that, that is a debate that ought to go on. That is a very legitimate debate, and it ought to go on between the President and the Congress.

Senator EXON. Thank you, Senator.

Senator Conrad?

Senator CONRAD. Well, I have got some questions, Mr. Chairman, but I think in the interest of time, because of what happened this morning, I will forego those questions so we can get to the next Senator.

Senator EXON. All right. You have the right to ask questions for the record, if you wish.

Senator CONRAD. I think I will just ask Senator Craig when we are on the floor together. I have got a question. I will ask him there.

Senator CRAIG. Well, I need to lobby you anyway, because you are not a cosponsor yet of our package. [Laughter.]

Senator CONRAD. Well, I have got a question, and if you answer it in the affirmative, I might become a cosponsor.

Senator EXON. It is better that you not ask a question, I suspect, from what I am thinking. [Laughter.]

Senator DOMENICI. Mr. Chairman?

Senator EXON. Yes?

Senator DOMENICI. Might I just state, Senator Craig, I think we will explore with your staff some concerns that we have about how conference and differences between the two houses will work with reference to this approach of the security box or lock box. There are some unanswered questions in our minds on it, but we will not bother you now with it. We will raise them later.

Senator CRAIG. Well, I would appreciate that very much. What we have put before you is an idea that we think has some very real merit. We will certainly bow to your technical expertise and the expertise of your staff, and that would be greatly appreciated in accommodating some of these approaches.

Senator EXON. Thank you very much, Senator Craig, and we appreciate you being here and for your excellent testimony, and you are excused.

I am pleased to call Senator Cohen, the senior Senator from Maine, at the present time. Before he starts his testimony, the Chair has been advised that Senator McCain will not be able to make it because of the change in schedules. He has asked unanimous consent that his written statement be submitted for the record. Without objection, that is so ordered.

[The prepared statement of Senator McCain follows:]

PREPARED STATEMENT OF SENATOR MCCAIN

Mr. Chairman, I would like to thank you and Ranking Member Domenici for holding this hearing today. Although this issue has been debated many times on the floor of the Senate, this is the first time since I arrived in the Senate 8 years ago that we have held a hearing on the matter.

At the beginning of the 103d Congress I introduced S. 9, the Legislative Line-Item Veto Act. This legislation would give the President the power to identify, up to 20 days after an appropriations bill is sent to the White House, items of spending within that bill that are wasteful. The President will then notify Congress of the elimination or reduction of the funds for these items. The President may veto, or freeze, part or all of the funds for programs that are determined to be wasteful. As you know Mr. Chairman, such items are called enhanced rescissions or, more commonly, line-item vetoes.

If the Congress disagrees with the President's rescissions, a simple majority vote in the House and Senate within 20 days will overturn these line item vetoes. If no action is taken within the allotted 20 day period the rescissions automatically become effective. The President then has the opportunity to veto the rescission disapproval bill. In that case, the veto may be overridden by a two-thirds vote of the House and Senate.

Mr. Chairman, S. 9 would also allow the President a second chance to eliminate wasteful pork barrel spending by allowing him to submit additional enhanced rescission requests with the budget submission at the beginning of each year. This second shot at proposing rescissions ensures that the President has the opportunity to strike pork barrel spending that may not be obvious during the first rescission period. Additionally, let me note, S. 9 WOULD NOT allow the President to rescind money for entitlement programs such as social security, medicaid, or food stamps.

As we all know, Mr. Chairman, pork barrel politics is nothing new. However, the Congress' addiction to pork has grown to obscene proportions. Something must be done and something must be done now. For too long the Congress has addressed this issue by maintaining the status quo. In the meantime, our addiction was growing and growing.

Mr. Chairman, while we are "getting our pork fix" our children are being raised in a nation that may soon have no choice but to go cold turkey. The public is aware of our profligate spending habits and their disdain for our activity is reflected in our 28 percent approval rating.

The Federal debt is approaching \$4 trillion. The cost of interest on that debt is now almost \$200 billion a year. That is more money than the Federal Government will spend on education, science, law enforcement, transportation, food stamps, and welfare combined. The Federal budget deficit set a record of \$290 billion in 1992.

By 2003, the deficit is expected to leap to a staggering \$653 billion and will have reached its largest fraction of gross domestic product in more than 50 years.

Mr. Chairman, we must act to restore budgetary restraint in the Congress. An analysis of the past shows that after each of the last major Budget Deals, the deficit in fact increased, spending increased, and taxes increased. We must avoid this cycle. If we are to avoid a repeat of the Carter and Bush years, we must work towards real budgetary reform that truly curbs spending. This is a considerable undertaking that will involve asking all, including many powerful coalitions, to do more with less. The control for the Nation's purse will become even more fierce if we institute budgetary reform and limit spending. One key aspect of this is to give the President the line-item veto—a real line-item veto.

We must not confuse giving the President real line-item veto authority with some of the other plans being considered. Although I praise the Senator from Idaho for his efforts in this arena, the bill he has introduced here and that passed the House is not a real line-item veto. Unfortunately, it is nothing more than a bandaid—designed to assuage the public, but doing nothing to actually bring our fiscal house in order.

Mr. Chairman, at this point, I ask consent that a side-by-side analysis prepared by my staff be inserted into the committee record.

ENHANCED RESCISSION SIDE BY SIDE COMPARISON

McCain/Coats

Allows President to line item veto appropriated funds within 20 days of signing a spending bill.

Gives Congress 20 days to consider rescission bill.

House and Senate required to vote NO against rescission message by simple majority to force President to spend funds.

If majority NO vote against President does not occur, cuts are automatic.

The President may veto rescission disapproval bill.

2/3 vote in House and Senate needed to override veto.

Allows President to submit rescissions a 2nd time when the President submits annual budget.

Stenholm/Craig

Allows President to line item veto appropriated funds within 3 days of signing a spending bill.

Gives Congress 10 days to consider rescission bill.

House and Senate required to vote YES in agreement to rescission message by a simple majority to funds to be cut.

Funds frozen until rescission bill defeated. If defeated funds automatically released.

no provision. (Assumed Pres. would not veto.)

no provision.

no provision.

Mr. Chairman, others have recognized our problems.

Ross Perot on Good Morning America stated: "... There's every reason to believe that if you give the Congress more money, it's like giving a friend who's trying to stop drinking a liquor store. The point is they will spend it. They will not use it to pay down the debt. If you don't get a balanced budget amendment, if you don't get a line-item veto for the President, we might as well take this money out to the edge of town and burn it, because it'll be thrown away."

Governor Clinton on Larry King Live: "We ought to have a line-item veto."

Candidate Bill Clinton in Putting People First: "Line-Item Veto. To eliminate pork-barrel projects and cut government waste, I will ask Congress to give me the line-item veto."

President Bill Clinton in his Inaugural Address: "Americans deserve better . . . so that power and privilege no longer shout down the voice of the people. Let us put aside personal advantage so that we can feel the pain and see the promise of America. Let us give this Capitol back to the people to whom it belongs."

According to the CATO Institute, December 9, 1992, Policy Analysis:

Ninety-two percent of the governors believe that a line-item veto for the President would help restrain Federal spending. Eighty-eight percent of the Democratic respondents believe the line-item veto would be useful.

America's governors and former governors have a unique perspective on budget reform issues. Most of them have had practical experience with the line-item veto and balanced budget requirement in their States. The fact that most governors have found those budget tools useful in restraining deficits and unnecessary government spending suggests that they may be worth instituting on the Federal level.

Additionally from the CATO Institute study:

Keith Miller (R), former governor, Alaska: "The line-item veto is a useful tool that a governor can use on occasion to eliminate blatantly "pork barrel" expenditures that can strain a budget. At the same time he must answer to the voters if he or she uses the veto irresponsibly. It is a certain restraint on the legislative branch."

Michael Dukakis (D), former governor, Massachusetts: "The line-item veto is helpful in stopping efforts to add riders and other extraneous amendments to the budget bill."

L. Douglas Wilder (D), former governor, Virginia: "To the detriment of the Federal process, the President is not held accountable for a balanced budget. Congress takes control over budget development with its budget resolution, after which, the President may only approve or veto 13 appropriations bills. Without the line-item veto the President has minimal flexibility to manage the Federal budget after it is passed."

S. Ernest Vandiver (D), former governor, Georgia: "Tremendous tool for saving money."

Ronald Reagan (R), former governor, California, former President: "When I was governor in California, the governor had the line-item veto, and so you could veto part of a bill. The President can't do that. I think, frankly—of course, I'm prejudiced—government would be far better off if the President had the right of line-item veto."

The U.S. Chamber of Commerce "supports the McCain bill or similar legislation providing for line-item veto/enhanced rescission authority, as a means of curbing excessive and wasteful government spending, to provide for better prioritization of scarce resources, and to encourage deficit reduction without tax increases."

Again Mr. Chairman, I want to thank this committee for holding this hearing. I hope the record established here will give momentum to our efforts next year, when again, I will bring this issue to the floor of the Senate and work for passage of the line-item veto.

Senator EXON. Please proceed in any fashion that you see fit, Senator Cohen. We are very glad to have you before the Budget Committee.

STATEMENT OF THE HON. WILLIAM S. COHEN, U.S. SENATOR FROM THE STATE OF MAINE

Senator COHEN. Well, thank you very much, Mr. Chairman. I apologize for being late. I was delayed at the majority leader's—the junior Senator from Maine's office—a moment ago. And I can say that because I am getting prepared to speak tonight at his farewell party. It has been one of my, I guess, positions in life to be constantly introduced as the junior Senator from Maine when the contrary is true. And so I take every opportunity I can to jab the majority leader as often as possible on that subject matter when he is not around. [Laughter.]

Senator EXON. I believe I introduced you as the senior Senator.

Senator COHEN. You did. You did.

Senator EXON. OK. I remember.

Senator COHEN. I am told, Mr. Chairman, that you have to be out of here at 12:30. So that sort of inhibits my lengthy presentation.

Senator EXON. We planned it that way.

Senator DOMENICI. You do better when you are brief.

Senator COHEN. So there goes the statement. Mr. Chairman, let me say I have introduced legislation as well as a Sense of the Senate amendment to the 1994 Budget Resolution. It passed, as I recall, by a vote of nearly two-to-one. No further action, of course, was taken at the time because there was a pledge to hold hearings on this issue, which you are now doing. And so I am simply reiterating the presentation I made on the Senate floor at that time.

It is really an effort very similar to the legislation that Senator Craig has talked about. There are some differences, especially that special fund that was talked about. But essentially, we are trying to split the difference between competing proposals. There are, I think, serious constitutional questions raised about the line-item veto.

Senator Domenici and I are frequently called upon to take various pledges in terms of how we are going to deal with the Republican "Contract with America" and what our pledges are going to be. And I think a number of us, while we are obviously committed to deficit reduction and strong fiscal constraints, have concerns about whether or not the transfer of power associated with the line-item veto is something that we should really encourage and support.

And so, expedited rescission is what we believe to be a striking of the balance. We think that the President ought to have an opportunity to rescind, whatever he feels—he or she might feel—is a wasteful expenditure. And I say that with respect to tax expenditures as well as appropriations.

There is some notion that perhaps tax expenditures ought to be off-limits. But I think you can have just as much waste in a tax expenditure. A special tax provision like accelerated appreciation for tuxedos, which made its way into one of our budget deliberations, must be weighed against using those scarce tax dollars for a general purpose such as the R&D tax credit. Unless you are from Tuxedo Junction, I suspect that you would go for the R&D tax credit.

This is the kind of determination that a President ought to be in a position to make, and we ought to be forced to vote up or down on it. Congress sometimes hides behind the whole authorization, appropriation process whereby some of these items are slipped in and then you have to take the package as a whole. And the President ought to be in a position to say that something is unacceptable, and then force us to justify exactly why it is in there.

You and I, and all of us, have been caught blind-sided on a number of occasions, when asked: How in the world did that get in this bill? And we are embarrassed by it. We get embarrassed by it, and yet you cannot take it out unless you want to defeat the whole bill.

Expedited rescission will force us to justify special spending items. If there is merit to them, we will support them. And if they lack merit, if it is simply there as a pork barrel project on the part

of one or two or more who had the power and the position to do that, then we ought to be forced to justify it.

I offer expedited rescission not as a panacea to our budgetary problems. It will save minuscule amounts compared to the real problems that we need to address such as entitlements. But nonetheless, even though a wasteful expenditure may be of minor fiscal importance, it is of major political significance.

All of us know what happens when we get up and highlight the waste that is involved in a \$700 toilet seat. The public reaction is not: Well, what is \$700 for a toilet seat in a \$1.5 trillion budget.

They say: How can you possibly spend that kind of money for that item?

And so, it has great political significance, if not great economic consequence, to root out waste. And I think that as a result of the sentiment in the public now, which is quite cynical, directed toward the Congress as an institution and perhaps at us as individuals, we ought to take every opportunity we can to remove the causes of cynicism. Budget reform would be a small step in doing that in my judgement.

So with that, Mr. Chairman, I would submit my formal statement for the record.

Senator EXON. Without objection, your full statement is included in the record.

[The prepared statement of Senator Cohen follows:]

PREPARED STATEMENT OF SENATOR COHEN

Mr. Chairman, I appreciate the opportunity to testify before this committee regarding my legislation to establish an expedited procedure for House and Senate considerations of rescission requests made by the President.

Under current law, Congress is not required to act on requests by the President to rescind funds already appropriated by Congress. If Congress chooses to ignore rescission requests, they simply wither on the vine.

In light of looming and repeated deficits, however, I believe that Presidential requests to rescind spending deserve to be acted upon. Congress should not be able to simply ignore these requests.

Under "expedited" rescission, Congress would be required to vote on the President's rescission request within 20 days of its proposal to Congress.

Expedited rescission authority under my bill would also apply to tax expenditures. Wasteful Federal spending is not restricted to appropriation matters. Federal resources can also be wasted through the tax code. The President should have the authority to reach this type of waste as well. Every dollar expended through a wasteful tax provision is a dollar that would be better expended through a productive tax provision.

It would be better to spend a tax dollar through the R&D tax credit than through some pork-barrel special depreciation schedule for tuxedos as appeared in a recent tax bill.

Last year and again this year, the House of Representatives passed legislation to create expedited rescission authority. My rescission proposal is very similar to the House version.

As evidenced by the House vote, support for expedited rescission is broad and bipartisan. While I realize that it does not go as far as some would like in terms of giving the President unabridged line-item veto authority, I think expedited rescission offers a reasonable first step to strengthening an important deficit-reduction tool. By the same token, expedited rescission does not shift power too abruptly from the legislative to the executive branch as some appropriately are concerned about.

I am under no illusion that giving the President expedited rescission authority alone will be a panacea for deficit reduction. Indeed, I am well aware that entitlements rather than discretionary spending have been responsible for the growth in Federal spending.

Medicine much harsher than expedited rescission authority will have to be swallowed if we are ever to balance the budget. However, given the seriousness of the

deficit problem, we should not miss a single opportunity to strengthen deficit-reduction procedures.

Beyond any benefits expedited rescission could provide with respect to deficit reduction, I think it could help to rehabilitate Congress' tarnished image. Examples of wasteful spending attract public attention well beyond their budgetary significance. In the face of \$700 toilet seats, no one in the public say, "That's OK. It only represents a minuscule fraction of the \$1.5 trillion Federal budget." Instead, they walk away with disgust at their elected leaders. Accordingly, I do not think the non-budgetary importance of budget reform should be underestimated.

During the Senate's consideration of the 1994 Budget Resolution, I offered an amendment expressing the sense of the Senate that expedited rescission procedures should be adopted. I was pleased that—by a nearly 2-1 margin—a motion to table this amendment was rejected.

Since that time the House of Representatives has passed an expedited rescission bill by an overwhelming majority.

I am pleased that the Clinton administration also supports expedited rescission and that then OMB director Panetta had an opportunity to testify to this effect in the House last year.

Last year, two of Washington's most prominent Congressional scholars—Thomas Mann of the Brookings Institute and Norman Ornstein of the American Enterprise Institute—testified before the Joint Committee on the Organization of Congress in support of expedited rescission.

In light of the strong support expedited rescission enjoys, I obviously had hoped that the Senate would have had an opportunity to take this matter up this year. I regret that it did not. Next year, I intend to reintroduce my legislation because I believe it offers the best way to strengthen the President's rescission authority without upsetting the balance of power between the legislative and executive branches. At that time, I look forward to working with the committee to explore this and other options for curbing wasteful public spending.

Taxpayers appropriately demand accountability for the way Congress spends their money. Expedited rescission would provide that accountability by assuring that Congress could no longer duck the tough votes on rescission requests. I hope that this committee will play a supportive role in strengthening the President's rescission authority.

Thank you.

Senator EXON. Thank you for being here. I very much appreciate what you just said. You were not here earlier for our opening statements, and I think several of us echoed exactly the comments that you just alluded to. We are about this process of an enhanced rescission, a line-item veto, call it what you will.

We should not mislead the people that even if something like this would pass, it would solve all of our problems. But it is an important step in the right direction. I think that is basically what you said in your final remarks, and I thank you for that, thank you for your understanding, and I thank you for being here.

Senator Domenici?

Senator DOMENICI. I have no questions. Senator, in my opening remarks, I traced the history of why we have been unable to modify the Budget Act with legislation of your type and commented that it seemed to me that it was the most logical and most apt to be passed of all of the proposals.

And in addition, I clearly laid before the committee that failure to report out from this committee is the stumbling block, because on more than one occasion, the requisite 52, 55, 57 votes have occurred on the positive side, but you need 60. And that is just because we have not reported the measure out.

And so, I think the case is being made. I think the chairman of the full committee is indicating a willingness to move quickly next year. I clearly am, and I thank you for your leadership.

Senator COHEN. Well, if I might respond just quickly, it has, I think, broad bipartisan support. The House overwhelmingly sup-

ports it. The President supports it. Leon Panetta, when he was OMB director, testified in support of it. So I think it enjoys bipartisan support in both houses.

Senator EXON. Thank you, Senator Domenici.

Senator Conrad?

Senator CONRAD. Can I just ask, how many co-sponsors do you have on your proposal?

Senator COHEN. Five.

Senator CONRAD. I want to thank the Senator from Maine for the excellent testimony and the very thoughtful presentation this morning, and I think a thoughtful approach to the problem. And I think perhaps we can actually make progress on this in the next session.

Senator COHEN. Thank you very much.

Senator EXON. Senator Cohen, thank you very much for being here, and it was excellent testimony. It will receive due consideration when we get at this, hopefully early next year.

Senator COHEN. Thank you, Mr. Chairman.

Senator EXON. With that, you are excused and we are adjourned. [Whereupon, at 12:32 p.m., the committee recessed, to reconvene at 2:00 p.m. the same day.]

AFTERNOON SESSION [2:04 P.M.]

Chairman SASSER. The committee will come to order. We are pleased and honored to have before us today the President Pro Tempore of the United States Senate, the distinguished Senator from West Virginia, Robert C. Byrd. And Senator Byrd will be giving us his views this afternoon on the whole question of line-item veto and the subject of enhanced rescission.

Mr. Chairman, I want to welcome you before the committee this afternoon. It is always a pleasure to see you and always very edifying to get your views on the subject of budgetary matters and others. As you can see, Mr. Chairman, attendance is sparse here this afternoon. But we shall continue and proceed, and get to your testimony. And I suspect that others will be coming and going at some point during the afternoon.

You may proceed, Mr. Chairman, and again, we welcome you here.

STATEMENT OF THE HON. ROBERT C. BYRD, U.S. SENATOR FROM THE STATE OF WEST VIRGINIA

Senator BYRD. Thank you, Mr. Chairman, and thank you for the gracious invitation to appear here this afternoon. You spoke about the attendance being sparse. Wellington said that the presence of Napoleon on the field was worth 40,000 men. Mr. Chairman, your presence as chairman of this committee is worth a good many men in my viewpoint.

Chairman SASSER. Thank you, sir.

Senator BYRD. At least, I do not feel alone. [Laughter.]

Chairman SASSER. Thank you.

Senator BYRD. I appreciate and welcome the opportunity to offer my perspective on the various proposals before you today. I take it that those proposals are S. 9, H.R. 4600 and S. 526. One of the most serious and contentious issues Congress has faced over the

past 14 years has been a succession of large and menacing budget deficits.

They have, in effect, become a national cancer, eating away at our ability to invest in the future productivity of our children and grandchildren. But stemming the flow of Federal red ink is not an easy task, despite the best efforts of some to portray it that way.

Nevertheless, in August of 1993, the Congress did act by passing legislation which will achieve well in excess of \$400 billion of deficit reduction. Notwithstanding that substantial progress, too often in Washington, fiscal problems tend to be addressed by tinkering with the process.

Over the past dozen years, we have been plagued with process worship as a way of dealing with controversial problems, the balanced budget amendment, the line-item veto, enhanced rescission, expedited rescission, all have been advanced as automatic solutions to the dilemma of our budget deficits.

In fact, I believe that such process changes would be damaging to the institution's constitutional purpose and functions. For starters, none of the proposals before the committee today deals with the rising cost of entitlement or mandatory spending, which we know is the only growth area in the budget, nor would they deal effectively with the more than \$400 billion of lost revenue that results from tax expenditures or tax deductions, as most of us know them.

Those are the tax dollars lost to the Federal treasury due to special provisions in the Federal tax code. These provisions allow deductions, exemptions, credits or deferral of tax payments and, in effect, reduce the amount of tax paid by some while requiring the rest of us to pay higher taxes than would otherwise be the case.

The word "expenditure" is used to highlight the fact that these tax breaks are, in many respects, no different than if the government wrote out a check to the individuals or businesses concerned. The plain truth is that tax expenditures are nothing more than another form of government spending.

As such, they should receive the same scrutiny as any other form of spending. Unfortunately, many of our own colleagues here in the Senate do not focus enough attention on the largely unchecked form of back door spending.

Indeed, one of the chief problems with tax expenditures is that once they are enacted into law, unlike programs that have to be appropriated for, these tax expenditures very rarely ever again come under the congressional spotlight. In fact, in a June, 1994 report on this issue, the General Accounting Office found that almost 85 percent of 1993 revenue losses from tax expenditures were traceable to provisions enacted before 1950, while almost 50 percent of those losses stem from tax expenditures enacted before 1920.

Because these expenditures have largely escaped congressional review, many have simply outlived their economic usefulness. But until they come under the same examination as other forms of Federal spending, no one will ever know for sure. Not since the Tax Reform Act of 1986 has there been any systematic review of these provisions.

Furthermore, like entitlement spending, tax expenditures are projected to grow substantially over the next several years. As re-

ported by the Joint Committee on Taxation, the aggregate cost of these provisions is expected to total \$410 billion in fiscal year 1994, \$434 billion in fiscal year 1995, \$464 billion in fiscal year 1996 and \$498.9 billion in fiscal year 1997 and \$525 billion in fiscal year 1998.

A cumulative increase of \$281 billion in just 4 years. Compare that increase with an increase of less than \$3 billion in discretionary spending over the 5-year period of fiscal years 1994 and 1998.

The problem, however, does not stop here. Unlike traditional forms of discretionary spending, tax expenditures circumvent the extremely important two-step process of authorization and appropriation. Because these provisions come out of the tax writing committees in the House and Senate, those committees become, in effect, both the authorizing and appropriating authority.

Obviously, that fact is very appealing to any special interest groups seeking Federal financial support since anyone who can bypass that two-step process will have a much higher probability of seeing their interests fulfilled.

Make no mistake about it, many of these programs are worthwhile and serve a useful public purpose. The earned income tax credit, for instance, has lifted many Americans out of the depths of poverty, hard-working Americans whose only crime is that the work they do does not pay enough to support their families.

But at the same time that some of these programs help American families, many more are nothing more than a way of the special interest groups to circumvent the normal authorization and appropriations process here in Congress. The problems associated with tax expenditures do not need to continue. In its June report on this subject, the General Accounting Office provided several recommendations that are worthwhile and should be seriously considered by Congress.

For example, the General Accounting Office suggested that further integrating tax expenditures into the budget would highlight the vast resources lost to the Federal Government. Moreover, these expenditures should undergo program reviews within the congressional tax writing committees that may lead to the redesign or elimination of those that are deemed inefficient or outmoded. One way to ensure such scrutiny would be to sunset most tax expenditures, thus requiring the reenactment of those which are worthwhile at regular intervals.

Mr. Chairman, what is fundamentally at stake in this debate and what I believe would be lost if we enact these so-called reforms is the people's power over the purse. It was placed there by the constitutional framers more than 200 years ago and with good reason.

As Madison so eloquently explained,

This power over the purse may, in fact, be regarded as the most complete and effectual weapon with which any constitution can arm the immediate representatives of the people for obtaining a redress of every grievance and for carrying into effect every just and salutary measure.

That was the father of the Constitution who was saying those words.

If we enact legislation giving the President enhanced rescission authority or line-item veto authority, we will have greatly damaged the people's power over the purse as exercised by their immediate elected representatives.

Furthermore, this incessant focus on changing procedure rather than facing substantive policy questions head-on has, in my opinion, significantly constrained the type of thought provoking debate needed to bring about real solution. I believe that the lack of extensive debate is one reason the decisions we face are so difficult for Members of Congress.

Unless we publicly air the great issues of the day, thereby laying the groundwork for consensus, the more we leave a vacuum, an informational black hole that is all too easily filled by self-serving interest groups, misinformation, media hype and outright political demagoguery.

This obsession with process has also provided many members with an easy way to avoid making hard choices. Often, proponents of process fixes insist that we in the Congress do not have the will to act, and thus, we must be forced to do our jobs responsibly.

Not having the will to act is, of course, a buzz phrase that really means not having the courage to make tough choices. And some of the very same people who advance and support these so-called reform proposals are the same ones who refuse to vote for a genuine deficit reduction measure.

For example, in March of 1993, 45 Senators voted to waive the Budget Act in order to permit consideration of an enhanced rescission proposal ostensibly as a way of cutting spending.

By August of that year, however, only 4 of those 45 were equally willing to support the 1993 Reconciliation Bill, legislation achieving well in excess of \$400 billion of deficit reduction.

Likewise, on March 1 of this year, 63 Senators voted for the much vaunted Balanced Budget Amendment to the Constitution, and yet only 17 of them had voted in favor of the Reconciliation Bill the previous August.

Is it any wonder, then, given this kind of contradictory performance on the part of so many members—those members know very well who they are—that the American people hold the institution in such low esteem.

My point is this: Until we face our problems head on, they will never be fixed.

In a representative democracy, the people must face issues and understand them before elective officials can responsibly act to put into effect acceptable workable solutions. As the American people reflect on those issues and as we in the Congress debate the dangers that would extend from enactment of enhanced rescission or a line-veto authority, I hope we will all keep in mind the words of H.L. Mencken, the great American author, who wrote:

There is always an easy solution to every human problem—neat, plausible, and wrong.

Now, Mr. Chairman, if I may turn now to S.9, Enhanced Rescissions. It is called the Legislative Line-Item Veto Act of 1993, Title XI, Legislative Line-Item Veto Rescission Authority. But it is really enhanced rescission authority. It is not line-item veto; it is en-

hanced rescission authority, and there is a tremendous difference between the two.

Section 1101: The President may submit to Congress a special message rescinding budget authority from each Appropriation Act, (a) by special message not less than 20-calendar days after enactment, or (b) by special message accompanying his annual budget, if such rescissions have not been previously submitted.

In other words, (a) requires a separate special message for each Appropriation Act, but (b) allows one special message to cover more than one Appropriation Act.

The President could veto an Appropriation Act, and Congress could override, but the President could then, after having vetoed the bill and having had the veto overridden—the President could then submit rescissions under the 20-day authority of (a), which Congress could disapprove under the procedures of S.9. The President could veto this rescission disapproval bill, requiring a two-thirds vote, to override.

And finally the President could submit even more, although different, rescissions for any Appropriation Act in a message to accompany his annual budget.

Here, again, Congress could pass a rescission disapproval bill which the President could veto, forcing a two-thirds override.

Also, although he has not explicit authority to do so, the President and his agency heads could tend to slow down, if not prohibit, obligations of budget authority for items of Congressional interest in order to have these items around, have them still available, for rescission in connection with the President's budget submission.

Section 1101, Subsection (b): Any amount of budget authority proposed for rescission under this bill shall be deemed cancelled unless a rescission disapproval bill is enacted under law in the following timeframe.

Congress has 20-calendar days of session to enact and present the bill to the President. The President then has ten days to sign or veto the bill and, if vetoed, Congress has 5-calendar days of session to override.

Section 1102 defines "rescission disapproval bill" as a bill or a joint resolution which jointly disapproves a rescission of budget authority in whole as sent in a special message transmitted by the President under Section 1101.

The bill is silent as to who may introduce such rescission disapproval bills. They would be referred to the appropriate committees. The bill provides no discharge mechanism.

The bill provides that any rescission disapproval bill received in the Senate from the House shall be considered as I shall describe. No procedures are included for a consideration in the House of rescission disapproval bills received from the Senate. So it is a one-way street.

Now as to the procedures in the Senate, floor considerations shall be limited to not more than 10 hours, and a motion to further limit debate is not debateable—cut it to 1 hour on a non-debateable motion.

A motion to recommit, except with instructions to report back within 1 day, is not in order.

It shall not be in order in the Senate or House to consider any amendment. I do not understand the reason to even have a recommittal motion in the bill, unless it is just to chew up 1 day of time.

It shall not be in order in the Senate or House to consider any amendment to a rescission disapproval vote. However, this may be waived or suspended in the Senate by a vote of three-fifths of the members, duly chosen and sworn. It does not say anything about the House, whether the House can waive it at all by a vote of three-fifths.

And inasmuch as the resolution is silent on that point, I take it that the House could waive a point of order by a majority vote. A simple point of order can be overridden by a majority vote in the Senate, but if it is a specified 60 vote point of order, then it is different.

So we may have one house here offering amendments by overriding a point of order by a majority vote. In the Senate, there has to be 60 members in order to override that point of order and be allowed to amend.

There is no procedure for resolving House/Senate procedures or differences, nothing in there about a conference or amendments between houses. And presumably if the Senate can muster 60 votes and amend, there may be some amendments in disagreement. There may be some conferences. No procedure whatsoever.

In conclusion, this bill gives the President a heads-I-win, tails-you-lose situation on rescissions. And it also allows the House to take up, pass, and send to the Senate rescission disapproval bills which protect House items, and this would leave the Senate as a second-class legislative body.

It takes away from Senators the right to amend. You have to get 60 votes, Senator Sasser, before you could offer an amendment. The Constitution does not say that you have to get 60 votes in order to amend a bill. The Constitution does not say that you have to have 60 votes before you can offer an amendment to a tax bill or other bill that comes over from the House.

But this says 60 votes. You will have to have 60 votes before you can offer an amendment, 60 votes. The Senate has to vote by three-fifths of its members to allow amendments to be considered.

So much for that at the moment.

Now, H.R. 4600, which has been enacted by the House, H.R. 4600 provides for expedited rescission of budget authority or repeal of targeted tax benefits.

Section 1012: The President may send to Congress a special message proposing to rescind budget authority any time after enactment—any time, Senator Domenici—or within 20 days after enactment to repeal any targeted tax benefits and a draft bill to accomplish the same.

After introduction in the House, the bill is referred to the Appropriations or the Ways and Means Committee, as applicable. The committee is discharged, unless the bill is reported without substantive revision, by the seventh legislative day after receipt of the special message.

During consideration, motions to strike—that is an amendment—motions to strike any provision in the House require the support of 50 members.

A vote on final passage will occur on or before the close of the tenth legislative day after the date of introduction of the bill. If passed, the bill is sent to the Senate within 1-calendar day. It gets over here on Saturday in the event that the House passes it on Friday.

The bill transmitted to the Senate shall be referred to the Committee on Appropriations or Finance, as applicable. It shall be reported without substantive revision, meaning no amendment, no later than the seventh legislative day after its receipt in the Senate.

During floor consideration, any Senator may move to strike any provision if supported by 14 other members. In other words, Senator Domenici, there have to be 15 Senators, 14 others plus yourself, before you can move to strike; 15 percent of the Senators it requires. It is biased towards the House, which only requires 50 members, about 11.5 percent, according to the old math.

Senator DOMENICI. How many?

Senator BYRD. Fifty members, 11.5 percent. But you have got to get 15 percent, 14 other Senators than yourself.

And remember, in the committee, you can have the whole committee wanting to strike, but you cannot strike language in committee, because that bill has to be reported without substantive revision.

On the floor, a motion to proceed to the bill is not debateable; amendments to the motion are not in order; a motion to reconsider is not in order; debate is limited in the Senate to 10 hours; a motion to further limit debate on the bill is not debateable; and a motion to recommit is not in order.

Any budget authority proposed to be rescinded under the bill shall be made available for obligation on the day following the day on which either house rejects the bill.

Therein lies a tale. Any tax provision to be repealed in a special message shall be deemed repealed unless during the period of Congressional consideration either house rejects the bill.

The only way to ensure the obligation of funds proposed by the President for rescission is for one house to defeat the rescission bill.

Let me say that again: The only way to ensure the obligation of funds proposed by the President is for one house to defeat the rescission bill. There is no other mechanism in this bill for the release of funds proposed to be rescinded.

This means that even though both houses may have voted to strike certain proposed rescissions from the bill, those rescissions will still be withheld from obligation, even if the President signs the rescission bill, from which specific rescissions have been stricken. Even if he signs that bill, those rescissions can still be withheld from obligation because the bill says that they will be made available for obligation on the day following the day on which either house rejects the bill.

With the support of 50 members, the House may move to strike any rescission or repeal of a tax provision. If the motion is successful in the House-passed bill, it therefore excludes any such provision.

There is no procedure for the Senate, in committee or on the floor, to consider restoration of such excised provisions, because the

only amendment that is allowable is an amendment to strike. If the House strikes out Senate items and the bill comes over to the Senate, the Senate cannot amend that bill to restore Senate items, because all the Senate can do is strike.

This puts the House at a great advantage. This will make the Senate a third-class body.

There are no procedures or processes in the bill for handling amendments between the houses or for conferences between houses.

Also no mention is made as to what happens if the President vetoes a rescission bill that is sent to him by Congress. The proposed rescissions would still be withheld from obligation. They can only be freed by rejection of that bill by one house or the other or both.

That is pretty potent, Mr. Chairman.

Also the President can continue to submit an unlimited number of rescissions from any appropriations bill throughout the year, so long as they have not been previously submitted during the fiscal year. He can just keep the Senate and the House tied up with rescission bills. Throughout the year, he can continue to send up to Congress rescission after rescission after rescission, unless those rescissions have been previously submitted.

Now as to S.526, which provides for separate enrollment of items in appropriations bills and tax expenditure provisions in revenue bills, Section 1101(a)(1): This bill delegates authority to the Secretary of the Senate for Senate-originated measures and the Clerk of the House for House-originated measures, to enroll each item of appropriation or tax expenditure provisions of such bill or joint resolution as a separate bill or joint resolution as the case may be.

Section 1101(a)(2) provides for the designation of the measure to which it originally was a part, together with such other designation as may be necessary to distinguish such bill or joint resolution from other bills or joint resolution enrolled with respect to the same measure.

Subsection (b) of Section 1101 provides that these separately enrolled measures, quote, "be deemed to be a bill under Clauses (2) and (3) of Section VII of Article I of the Constitution of the United States."

Now, Mr. Chairman, by the very language of the subsection, it does not meet the constitutional test of Section VII of Article I.

Congress could easily avoid the intent of the legislation by enacting lump-sum appropriations with directions provided only in the conference report, not in the bill itself, and also could write appropriation language that contains no separate items of appropriation, just a string of items but not clear separation, thus not divisible for separate enrollment.

So as with the line-item veto, Congress, if it so wished, can get around this measure simply by the way it writes up its bills. The people would be fooled.

Mr. Chairman, that concludes my opening statement.

Chairman SASSER. Well, thank you very much, Mr. Chairman. That was a very enlightening and informative discourse over the whole question of enhanced rescission and other budgetary matters.

I think you were so crystal clear in your statements and observations, Mr. Chairman, that I have no questions. You have answered all of my questions. And I will defer to Senator Domenici for any questions he might have.

Senator DOMENICI. Well, my only question was: Where are the other people on my side? And I've sent out word for that to see if we have some more Senators coming.

I would say, however, as a Republican, Chairman Byrd, I am one of the Senators that you referred to when you spoke of 44 voted one way and looked to procedures, and on the other reference I happen to be in that category, also. I do not conclude, as you do, as to what my vote means, so I hope there can be some understanding there.

I mean, I do not choose to talk about the 56 Democratic Senators who voted against a Dole/Domenici budget resolution that would have truly started us down the path toward deficit neutrality, and I do not choose to speak of those Senators in the way you have here. I think they had reason for not being for that particular reconciliation approach, just as I believe I had good reason not to vote for the 1-last year.

Other than that comment, which I hope you take from a Senator who I do not believe takes the backseat to anybody; I am trying to get the deficit under control. And contrariwise, Chairman Byrd, I am fully aware that the appropriation process has taken a big hit when it is not the thing that is breaking the budget.

Likewise, I just want to make my own observations about the reconciliation bill that you alluded to, essentially as compared with the remedies that were already written in the law in the 1990 summit and the caps that were in place then, which you had a lot to do with. The first 5 years under that reconciliation bill did nothing but up taxes and cut defense—increase taxes and cut defense, which puts a burden on appropriations. But for the rest of the budget, it is left almost intact with all the infirmities that it had, and CBO confirms it with the August assessment, saying there has been no real challenge to the structural deficit, even with the 1993 reconciliation bill.

So, I am not always looking for an easy way out, and I was not when I voted against that package. I also offered a very major budget that got almost every Republican that structured that deficit package differently.

Chairman Byrd, I have a question with reference to what is commonly called expedited rescission where the President sends up a list of rescissions out of an existing appropriations bill. He cannot go back in time or forward in time. He must respond to a bill you send him by sending up a list of the items he would like to rescind. The simplest form that I am familiar with is that that would be reported to the floor of the Senate, and whether it goes through committee or not is not necessarily relevant, but by a time certain it is voted up or down in the Senate.

Now, I take it from your comments that you perceive that that is too big a shift in executive versus legislative power, and too big a shift away from the language in the Constitution as to where the purse is supposed to be held, is that correct?

Senator BYRD. Yes.

Senator DOMENICI. On that one, might you just in your own way take a couple of minutes to tell me why you perceive that? The Senate has a right to vote, we do vote, we vote yes or no, so in one sense we are speaking, we are speaking in something the President asks us to speak on. And we choose as an institution to say if you ask us to speak on an issue defined thusly, we will speak on it by voting. There does not seem to me to be anything wrong with that process-wise, but I would like to know whether your objections are procedural or truly substantive in terms of power change.

Senator BYRD. Well, he asked us to vote on a health reform bill. We did not choose to do it. I think that is up to the Congress to determine whether or not it wants to vote on his bill up or down, or whether it wants to make some changes.

Why should we, then, when it comes to appropriations bills, the so-called expedited rescissions, write into the law that whatever he wants, we have got to vote on it up or down? We would have already voted on it. The people's representatives have a right and a duty, I think, to determine what the priorities are when it comes to spending the taxpayers' money. The President is not directly elected by the people. You are, Senator Domenici, and I am, but not the President. He is indirectly elected.

He sends up his budget. Who is there to say that we have to vote on his budget? The Republicans did not vote on Mr. Reagan's budget when he sent it up here. So why should we have to vote on his rescissions and put it into law? Why should we put it into law that whatever Mr. Clinton says he wants rescinded, we have to vote up or down on his rescission?

The people's elected representatives here in the Congress, under the Constitution, have the power of the purse, and I do not consider us to be under any obligation to any President, Mr. Clinton, Mr. Reagan or any other President, to be mandated by law to vote a second time on appropriations that have already been sent to the President and which he may have vetoed and the Congress may have overridden, and then he gets a second bite at those. That is just for starters, my opposition. I could go on at length.

Senator DOMENICI. Let me just say, obviously, you make many arguments today, both technical and substantive, that deserve every consideration. In discussing the matter of fiscal policy and appropriated accounts and the action of the United States Congress in a very large appropriations bill, in some instances with thousands of items, I do not believe that the President sending us back a few of them to be rescinded is comparable to him sending us the health care bill. You may in your wisdom, but I do not, as I see it.

Senator BYRD. Senator, you did not say he could send a few. If we mandate Congress, if we say Congress has to vote on his rescissions, he may send more than a few.

Senator DOMENICI. Well, let us say some. In any event, I just share this with you, I am very worried about the shift in power. I want you to know that, and I am very worried about what a President who is angry at Pete Domenici can do to him. I am also worried about a President who needs votes from me, what he could do, and for a long time that totally controlled my thinking.

I also understand that Members of Congress, in voting on an appropriations bill or a major tax bill, many times feel that they have to vote for it in conscience and on substance, not because of everything in it, but because a compelling portion of it meets their test and some items do not. As appropriations move through here, we have to be frank with each other: There are more of those kinds of sentiments being heard, that I voted for Labor, Health and Human Services, but there are 20 or 30 things in it, says Senator A, that I do not like.

Now, when you ask them, more times than not, it is something that was funded that they do not like. They are saying, many of those, Pete, are not asked for by the President, and many of those are strictly a member's desire. That is fine, I agree we are supposed to do that. And they are saying maybe this is a way for them to have an opportunity to vote another time on those kinds of items coming from the President.

Now, I want to say that I am not going to vote for any of these measures open-ended, because of my serious concern about the shift in power. If I support them, it will be for a short period of time. Let us try it for 4 years or try it for 2 years. But I do not want a President to have this forever, because even if it is not working, it will be subject to a President's veto pen when we try to change it. So I want it for a short period of time to see exactly how it turns out, to see whether your and my concern about the power shift and what they might do in a vindictive way versus a practical approach.

I thank you very much for your testimony.

Thank you, Mr. Chairman, for allowing me to comment, as I quickly reviewed Chairman Byrd's testimony. Thank you.

Senator BYRD. May I respond just briefly to Senator Domenici. As I understand, the Senator says that he would want to try it for 4 years or 2 years or whatever. He would not want to launch into it permanently, he would not want to give the President that authority permanently.

The problem with that, Senator, is, different Presidents may react and respond differently. If we make it a 4-year trial, we do not really get a test of that. The real test comes over a long period of time when you see what Presidents may do once they have the authority. They may act very differently than they would have acted, if they were just acting within a small window. To get down to one President, he may not abuse that. But after it becomes permanent, then it is open to abuse, and once we do that, once we give that power to any President, we will never get it back, never.

It is a one-way train and it ain't coming back, because he will veto any effort to bring it back, and unless the political mood changes in this country and unless a sense of reality sets in to a very high degree, the American people will not demand that that authority be returned to the Congress. Only the courts would be able to say that Congress does not have the power under the Constitution to give away its power. I think there is a debate that has occurred from time to time, at least, as to whether the Congress constitutionally can give away its power.

But I say this, if we ever shift that power to the President, the only way Congress will ever get it back will be for the courts to say it cannot give away its power, it cannot shift its power.

Second, Senator, the items that the President sends up for rescission may have been the very items without which that bill would not have passed Congress.

Mr. Chairman, is that all by way of questions?

Chairman SASSER. Mr. Chairman, I think there are no more questions. Let me express my appreciation to you for appearing here this afternoon and giving the committee the benefit of your views. It has been very educational to this Senator to listen to you on this subject, and I regret that more of our colleagues were not here to hear you, Mr. Chairman.

We had a letter I think signed by all of our colleagues on the Republican side requesting this hearing this afternoon. I thank Senator Domenici for appearing. I simply wish that others who had requested the hearing had been here to hear your testimony and that of our other colleagues who appeared and testified this morning.

Thank you very much, Mr. Chairman.

Senator BYRD. Mr. Chairman, I did not mean to finish my testimony.

Chairman SASSER. I am sorry.

Senator BYRD. I just inquired as to whether or not the questions had been exhausted.

Chairman SASSER. I am sorry, we will be pleased to hear you further.

Senator BYRD. If I may proceed for another 6 or 8 minutes.

Chairman SASSER. Surely.

Senator BYRD. Let me thank you and Senator Domenici for your presence. I can understand how it is that the other Senators are busy men and women, and so I do not fault them for that. But I do appreciate your presence, I say that to each of you.

I appreciate the fact that Senator Domenici and I do not agree on some of these things. I can understand that. He certainly has the courage always to speak up and say what he thinks and to differ.

Being the great Roman that he is reminds me of another Roman, Nero. Now, I do not compare Pete Domenici with Nero.

Senator DOMENICI. I hope not.

Senator BYRD. I am talking about the sixth, I believe it was, in the line of Caesars. I am not talking about Gaivs Claudius Nero, the Roman consul, who, during the second Punic war, defeated Hasdrubal, the brother of Hannibal at the Metaurus River in 217 B.C. They were two different Neros.

But the Emperor Nero, who reigned between the years 54 and 68 A.D., when he heard the Roman Senate had issued a decree for his execution, he fled to a little deserted house, with four or five other persons accompanying him. He was very agitated, as a person I suppose would be under those circumstances, and he took out his dagger and felt the point of it and said: Ah, it is not yet time, and put the dagger aside.

Then as he heard the sound of the horses coming, he asked one of those four or five who were with him to die—commit suicide—to show Nero how to die. He said it might be easier for me, after

all, I am the emperor, it might be easier for me to die, if one of you would die first. But nobody took him up on it. He could hear the horses' hoof beats coming nearer and nearer, whereupon he said "I die shamefully", and plunged the steel into his own throat.

Mr. Chairman, I say that when the Congress gives to a President enhanced rescission authority, which is far more dangerous than a line-item veto for reasons I will not go into this afternoon, then Congress will have plunged the steel into its own throat, and it should say "I die shamefully."

The process is not the problem, and process reform is not the answer to our deficit and budget woes. Now, all of these things I say just fall on deaf ears. Senators listen to me most courteously, most patiently, nod their heads and smile, but they do not pay heed to what I am saying, not a bit. It does not make any difference.

We cannot create a perfect process, and resourceful men and women could not be manacled to it, even if one could be created. But we can chain the legislative branch to an ever-more confusing, time-wasting and counterproductive legislative maize that further paralyzes the body and saps its strength, productivity and creativity.

We concede more and more, just as the Roman Senate ceded more of its authority to the dictators and then to the emperors. Let me say to my good friend, Senator Domenici, the great Roman there, he is not the noblest Roman of them all, because the noblest Roman is sitting on this side of the table. [Laughter.]

The Roman Senate, when it ceded its power over the purse, it gave away its power to check the emperors and, before the, the dictators, like Sulla and Caesar. If we cede more and more of the all-important power of the purse to the executive, if that is our aim, while we become increasingly engaged in creating an abomination of procedural fixes, we can further discourage the public by producing less and less of real value each session of Congress, because we are engaged in jumping self-erected legislative hurdles for the balance of each fiscal year.

Reform has become the battle cry with which many of this Congress intend to wage war on the public's flagging regard for the Congress. But, as Edmund Burke said, "to innovate is not to reform."

We risk further disillusionment of public opinion if we enact bad reform. We risk public fury if we enact reform which hands off the people's ultimate power, the ultimate power to check the excesses of the executive branch, the power of the purse.

If you do not believe what I am saying, Mr. Chairman, that it is important that Congress retain this power of the purse, take a look at the power of the purse when Congress drew a deadline in Somalia and said no more funds, that is it, Mr. President, if you want more funds, come back and ask for them, as it did in Rwanda, and as I hopefully wish it would—but I do not think it will just now—in Haiti, draw the line, that far, no farther, because no funds from this or any other act, no more funds.

Now, that is real teeth, the power of the purse, and many of those who would willingly give away some of this power of the purse to a President, if they really want to see how important it is that Congress retain that power of the purse, think of the situa-

tion in which a President, as commander-in-chief, leads our military forces into an invasion or into a war that has not been declared or approved by Congress.

It is the power of the purse that can stop him, with no way to get around it—the power of the purse. When that which we have cheerfully given away comes home to roost, as it will eventually, if we do, indeed, proceed with any of these much talked-about process fixes, the reformers may be running for cover. Superimposed against the background of our strident refusal to enact the one reform that would effectively improve the quality of our work, campaign finance reform, our enactment of any of these current unwise cosmetic changes becomes even more discouraging and obvious.

Until somehow we are able to come to grips with the real problems of our people, until we stop the ever-accelerating spiral of partisanship and disinformation which so distorts issues today, until we begin to more thoroughly debate issues and educate the public about their stake in our doings, and slow down enough to allow our membership to concentrate and think and approach the great problems of today, unencumbered by the pulling and tugging of the myriad special interests, and unafraid of the effect of votes on their campaign war chests, I fear we will not improve.

In my view, more time needs to be spent in honest debate on the floor when issues are important and warrant that time. Committee assignments need to be curtailed to help repair the severely fractured attentions of the members and staff. Senators need to be educated or to educate themselves about the importance of the checks and balances, and particularly about the fundamental importance of the power of the purse. And I have spent hundreds and hundreds and hundreds of hours educating myself on this matter.

Some way must be found to curtail the obstructionist tactics and partisan sniping which have been raised to an art form in recent years. Self-control must become the watchword in this body, instead of self-glorification. Loyalty to party must take a back seat to service to the public.

I believe that the first step in moving toward some of these much needed improvements lies in real campaign finance reform. The second step is found in better educating Senators, if they will be educated, about their constitutional responsibilities and the system of checks and balances and separation of powers. The third step is to find ways to better educate the public about the importance of the checks and balances and the danger of carelessly handing them off. The fourth step is to slow down and limit the responsibilities imposed on each member.

In short, each of us must stop grasping at the straws of process reform, and begin a little introspection about our responsibilities under the oath we all take, our responsibilities to this body, our responsibilities to each other and our solemn duty to better inform and serve the people.

Mr. Chairman, I thank you and Senator Domenici.

Chairman SASSER. Thank you, Mr. Chairman, for that final statement. It was spoken like a statesman.

Senator DOMENICI. Thank you very much, Mr. Chairman. I will review the last remarks again and again. I do not have the capacity to go learn Roman history or any history that you have. You

tried to teach me how and even given me some of the background information, and whenever I see you, I kind of hope you will not ask me what I have learned, and you have not yet.

Senator BYRD. Mr. Chairman, if I had the intellectual capacity and the youth of Senator Domenici, I would master Roman history, the history of England, the history of the United States, and the history of the United States Senate.

Senator DOMENICI. Mr. Chairman, might I just say that I agree with many of your closing remarks as to what is wrong with the United States Senate. I am not sure I have the same identical priorities. But I am greatly disturbed that our attention span is very small and that which we have is very fractured. I borrow those words somewhat from you, having heard them in our congressional reform hearings. But there is no question.

You just take the last 10 days before us, and if our attention has not been fractured, pieced out where we cannot possibly know what are in these bills we are voting in, and it is impossible, because we are getting a 1,000-page bill with 24 hours. It is impossible for us to do our job right. I do not know the answer, but the more we seek to do more, the less we are going to do well, with no question in my mind and I do not think process will fix it.

I thank you for it. We just happen to disagree on what new processes we need. I would be willing to get rid of a process for every new one. I think we can do it that way.

Thank you very much.

Chairman SASSER. Thank you very much, Mr. Chairman.

This committee stands in recess.

[Whereupon, at 3:07 p.m., the committee was adjourned.]

**STATEMENT BY LOUIS FISHER,
CONGRESSIONAL RESEARCH SERVICE,
SENATE COMMITTEE ON THE BUDGET,
OCTOBER 5, 1994
RESCISSION/ITEM-VETO AUTHORITY**

Mr. Chairman, I appreciate the opportunity to discuss a number of bills and resolutions that have been introduced to give the President enhanced power to rescind or item-veto appropriated funds.

The announced purpose behind these proposals is to reduce federal spending and eliminate so-called "pork" from bills submitted to the President. I think available analyses demonstrate that the reduction in federal spending would be modest, and there are even reasonable grounds to believe that the political dynamics of this process could generate *increased* federal spending. Presidents could threaten to delete individual projects unless the legislators from that region agreed to support a White House funding objective. A resulting quid pro quo would add to federal spending.

With regard to the potential for eliminating pork-barrel projects, again the final result is likely to depart from original intent. Presidents could use these new powers to advance executive spending favorites at the cost of congressional priorities. The major effect would be less on the level of federal spending than on a shift of national priorities. Funds would be directed more toward what Presidents request in their budgets rather than what Congress provides by law.

Moreover, if Presidents received greater leverage in item-vetoing individual projects in appropriations bills, legislators might have additional incentive to add local projects to bills and shift tough budgetary choices to the executive branch. Paradoxically, giving Presidents greater freedom to rescind funds or item-veto appropriations could make logrolling worse. Instead of crafting legislation with some balance and restraint, legislators might well be tempted to pile on special projects and let the executive branch take the heat.

Thus, what might be intended purely for budgetary purposes would have a substantial impact on executive-legislative relations, produce an increase in presidential power over spending priorities, and undermine the constitutional function of Congress in exercising the power of the purse. My testimony focuses on these institutional and constitutional concerns.

1. Current Rescission Process. Under the current statutory procedures of the Impoundment Control Act, presidential proposals to rescind appropriated funds can be approved by Congress, modified, or not acted on at all. Through such actions Congress is able to both reconsider and preserve some of its spending priorities.

In considering new procedures for rescinding funds, we need to first ask what is inadequate about the existing process. Is it unreliable? In need of replacement? The record shows that the rescission process can be used effectively to eliminate or reduce programs. Certainly that is the lesson from 1992 when President Bush proposed the rescission of funds for numerous programs, including such eye-catching names as asparagus research, celery research, Vidalia onion storage, and manure disposal.

Congress accepted some of President Bush's proposals but also cut programs advocated by the administration. Just as the President felt that some legislative programs were of low priority or useless, so did Congress reach similar conclusions about several executive-inspired projects and activities, many of which seemed to Congress "to be unnecessary and wasteful Federal spending." S. Rept. No. 102-274, 102d Cong., 2d Sess. 3 (1992). The Senate Appropriations Committee had no difficulty in sifting through executive desires to find some strange-sounding programs. For example, it cut National Science Foundation research grants for "monogamy and aggression in fish in Nicaragua; the well-being of middle-class lawyers; status attainment in Chinese urban areas; sexual mimicry of swallowtail butterflies; and song production in freely behaving birds." *Id.* at 47.

By cutting these and other programs favored by the executive branch, Congress met the President's target for aggregate savings but maintained a balance between legislative and executive priorities. President Bush asked for a total of \$7.9 billion in rescissions. Congress enacted a total of \$8.2 billion. It met the target for spending reduction and a cut in the federal deficit without wholly jeopardizing legislative interests. The process in 1992 yielded a balanced result.

The history of the Impoundment Control Act of 1974 shows how much can be rescinded through the existing process of Title X. From 1974 to the time that President Bush presented his proposals, the executive branch requested \$69.2 billion in rescissions. Congress approved \$21.3 billion but also initiated another \$65.1 billion, or a total of \$86.5 billion. H. Rept. No. 103-44, 103d Cong., 1st Sess. 3 (1993). If the President proposes rescissions and the House Appropriations Committee fails to report a rescission bill at the end of 25 calendar days, the committee may be discharged of further consideration under the procedures established in Section 1017. A motion to discharge only requires one-fifth of the Members of the House (a quorum being present) and is highly privileged in the House. The discharge procedure was used effectively in 1992 to prompt action on the rescission proposals of President Bush.

2. Expedited Rescission. Under the Impoundment Control Act, Congress need not respond to a President's proposal and if no action is taken within the 45-day review period the funds must be released for obligation. The purpose of "expedited rescission" is to force Congress to vote on a President's proposal. If the Appropriations Committees failed to act within a specific

number of days (such as seven), the rescission bill would be automatically discharged. Each House would have a specific number of days to consider the President's proposal. The vote on final passage in each House would have to be taken by a certain day, such as before the expiration of ten days. The vote would be a simple up-or-down choice, with no amendments permitted. If one House approved the measure it would go to the other chamber for consideration. If one House disapproved, the funds would be released for obligation because the President needs the support of both Houses.

As candidates for rescission, the President and his assistants could zero in on funds that Congress had added to the President's budget, regardless of the merits of the congressional add-ons. The rescissions therefore would come at the pain of Congress without any cost to the President. There would be no opportunity to spread the pain, as in 1992. If Congress could amend the rescission package by making substitutes for presidential proposals, some of the rescissions would hit Congress and others would hit the President. That was the experience in 1992 and it was a healthy one. Congress said clearly to the President: "We can economize as much as you can, but don't expect to escape the pain. Your favorite projects are on the block just like ours."

The expedited procedure would be improved if Congress had an opportunity to amend the President's proposal. Instead of prohibiting amendments by Congress, either in committee or on the floor, Congress could be permitted to offer a substitute. For example, any Member of Congress could move to strike any proposed rescission if supported by a specific number of other members (such as 49 in the House or 14 in the Senate). After those motions to strike, the President's package would be subject to an up or down vote.

When the House of Representatives passed an expedited rescission bill in 1993, it permitted the Appropriations Committees to propose a substitute for the President's package. Under the terms of the bill, the Appropriations Committees could report an alternative proposal provided that it rescinds an aggregate amount of budget authority equal to or greater than the aggregate amount recommended by the President. Each chamber would vote first on the President's package. Only by voting against the President's proposal would the House and the Senate proceed to consider the alternative bill reported from the Committees on Appropriations. 139 Cong. Rec. H2138 (daily ed. April 29, 1993).

This year the House again passed an expedited rescission bill (H.R. 4600). It has features similar to the 1993 legislation. The Appropriations Committees would have seven days to act. Although they could not amend the President's proposal they could report an alternative. Failure to act during that period would bring the bill to the floor, with each House given ten days to vote (up or down, without amendments). 140 Cong. Rec. H5692-5730 (daily ed. July 14, 1994). When Congress acted on this bill, it agreed to extend rescission procedures to presidential proposals to repeal "targeted tax benefits" in revenue bills. Id. at H5715-30.

Some proposals would allow members of Congress to strike -- but not add -- rescissions proposed by the President. This feature adds some flexibility to the legislative process but also puts Congress in an awkward strategic position. If the President asks that \$5 billion be rescinded, and all Congress can do is strike and strike, the total might decline to \$4 billion or \$3 billion. That result would make the President look like the economizer and Congress the "big spender," even if the record of Congress on other legislation is excellent. In terms of publicity and the media, Congress would place itself in an unflattering posture.

3. Enhanced Rescission. The proposal for enhanced rescission differs fundamentally from expedited rescission. The purpose of the latter is to force Congress to vote. If one House disapproves there is no need to proceed further, because the President needs the approval of both Houses to rescind funds. The purpose of enhanced rescission is to allow presidential proposals to become law without requiring Congress to vote. Congress would be given a period of time (such as twenty days) to consider a vote on the President's recommendation. If Congress failed to act during this period the rescissions would become effective and the budget authority cancelled. If Congress did vote, it would not be a vote to *approve* (as with expedited rescission) but a vote to *disapprove*. When this resolution of disapproval reached the President he could veto it and Congress could prevail only by mustering a two-thirds in each House for an override.

Separation of power concerns are much more severe under enhanced rescission than under expedited rescission. Although expedited rescission offers some procedural advantages to the President, the burden is still on the President to obtain the approval of both Houses. Enhanced rescission reverses the burden. Congress is obliged not merely to disapprove a President's proposal but to override a veto. Congress would forfeit more of its power of the purse under enhanced rescission than under expedited rescission.

4. Creating Mini Bills. Another version of expanded impoundment power would permit the enrolling clerk to separate each "item" from an appropriations bill and enroll that item as a separate bill or joint resolution to be submitted to the President for his signature or veto. Items are generally defined as any numbered section (containing provisos and conditions) or unnumbered paragraph (containing dollar amounts).

The obvious purpose of this proposal is to give the President greater discretion than he has with an omnibus appropriations bill. Action by the enrolling clerk would enable the President to make separate judgments on the individual pieces that currently make up regular, supplemental, and continuing appropriations bills.

Precisely how this would work is uncertain. An unnumbered paragraph would be the various appropriations accounts found in an

appropriations bill. The latitude of presidential discretion would depend in large part on how Congress decides to write an appropriations bill. A simple unnumbered paragraph would provide a certain amount of budget authority for a specific program or activity (such as one billion dollars for general construction projects by the Corps of Engineers). The unnumbered paragraph might include some earmarking of funds for particular projects. Although the President could veto this mini bill he could not strike the individual amounts for specific projects that are listed only in the conference report accompanying the bill for the Corps of Engineers. The President would be faced with an either/or choice to sign or veto the one billion dollars for the Corps of Engineers general construction account. It is possible that a *threat* of an item veto might eliminate some projects, but that is true of the existing legislative process.

The either/or confrontation could be avoided by adding greater detail to an appropriations bill, such as presenting one or two hundred unnumbered paragraphs for the Corps of Engineers general construction account instead of a single paragraph with a lump-sum amount. Many of the details from committee reports and agency documents could be incorporated in the public law. This would allow the President to trim an agency account rather than abolish it in full. However, it is unlikely that Congress would want to take details out of nonstatutory sources and place them in a public law. It is even doubtful that executive agencies would want this done. As matters stand now, agencies have substantial discretion and latitude in spending funds over the course of a fiscal year precisely because the details are *not* in public law.

The notion of authorizing enrolling clerks to prepare mini bills has constitutional problems. Under the procedures contemplated, the enrolling clerk would take a numbered section or unnumbered paragraph and add to it an enacting or resolving clause, provide the appropriated title, and presumably affix a new Senate or House bill number to it (1 U.S.C. 101-105). This procedure must satisfy the constitutional steps established in Article I, Section 7: "Every Bill which shall have passed the House of Representatives and the Senate, shall, before it becomes a Law, be presented to the President of the United States." Would these mini bills, in the form as fashioned by the enrolling clerk and submitted to the President, have actually passed the House of Representatives and the Senate? It would not seem so.

5. Item Veto. Under the Impoundment Control Act, the President signs an appropriations bill into law and then decides what programs and projects to recommend for rescission. Armed with an item veto, the President would exercise his disapproval at the time he acts on the bill, not afterwards. He could item-veto particular sections and return those to Congress for an override vote. The rest of the bill would become law. Unlike rescission authority, the President could only item veto what is in the appropriations bill before him, which usually includes few "items." Appropriations bills generally consist of lump-sum amounts. With rescission authority the President can go

inside lump-sum accounts and propose termination of funds for sub-account programs and projects.

For example, suppose that Congress appropriates a billion dollars for general construction projects for the Corps of Engineers. There is no breakdown in the bill to identify individual projects in the various states (other than some earmarking of funds for a few projects). Thus, the President's choices are few. He could item veto the entire billion dollars. Perhaps he could apply the item veto to the earmarked amounts. But he could not touch the hundreds of projects funded by the billion dollars because those projects are listed in the conference report, not in the bill itself. Rescission authority allows the President to send back to Congress a proposal to cancel budget authority for projects identified in the conference report and nonstatutory sources.

6. Inherent Item Veto. According to one theory, the President has access to item-veto authority at the present time without the need for further statutory or constitutional change. Part of the basis for this belief is the selective disapproval ("disallowance") imposed on the American colonies by the British Board of Trade from 1698 to 1776. To some scholars, this record implies that the framers supported an item veto for the President.¹ However, the practices of the British Board of Trade are closer to judicial review than to the item veto,² and to the extent they could be considered an item veto the framers were aware of those precedents and chose not to incorporate them in the U.S. Constitution.

Further grounds for rejecting the existence of an inherent item veto lies in the framers' treatment of a Council of Revision. At the Philadelphia Convention it was proposed that the veto power be lodged jointly in the President and the Supreme Court in a "council of revision." This council would have been able to disapprove specific items or sections of a bill. However, that proposal was debated fully and rejected, leaving the Court free and independent to judge bills *after* they were enacted, and restricting the President to a yes-or-no choice when bills reached him.³ Professor Forrest McDonald has argued elsewhere that the Court, in *Marbury v. Madison* (1803), "established the precedent that its power was of a line-item nature: It declared that Article 25 of the Judiciary Act of 1789, not the entire act, was unconstitutional."⁴ That

¹ Forrest McDonald, "The Framers' Conception of the Veto Power," in *Pork Barrels and Principles: The Politics of the Presidential Veto* 2-3 (National Legal Center, 1988).

² Elmer Beecher Russell, *The Review of American Colonial Legislation by the King in Council* 227 (1915).

³ 1 *The Records of the Federal Convention of 1787*, 21, 97-98 (Max Farrand ed. 1937); 2 Farrand 73-80.

⁴ Forrest McDonald, "Line-Item Veto: Older Than Constitution," *Wall St. J.*, March 7, 1988, at 16.

is an interesting argument for a judicial "item veto," but it does not advance the case for presidential power. Judicial precedents reject the availability of a presidential item veto.⁶

In 1988, the Office of Legal Counsel of the Justice Department released a 54-page analysis that found no merit to the concept of an inherent item veto.⁶ In 1992, President Bush remarked that his Attorney General, William Barr, had convinced him that an inherent item veto does not exist. President Bush said that Attorney General Barr, "in whom I have full confidence, and my trusted White House Counsel [C. Boyden Gray], backed up by legal opinions from most of the legal scholars, feel that I do not have that line-item veto authority. And this opinion was shared by the Attorney General in the previous administration."⁷

8. Timing and Scheduling. Proposals to increase presidential rescission or item-veto power would add substantial pressures to congressional workload. Expedited or enhanced rescission authority, for example, would allow Presidents to drive the legislative agenda and dictate to congressional party leaders what to take up, and when. Expedited or enhanced rescission authority would mean as many as thirteen separate rescission bills for each of the regular appropriations bills, plus rescission bills for any other appropriations acts (supplementals and continuing resolutions). Most of the rescission bills would come in September and October, when the appropriations bills clear Congress and are presented to the President. This is the time of the year when Congress is ready to recess or adjourn. Would Congress be forced to stay in session to consider rescission messages? The President's budget submission for the next fiscal year might be delayed because of the need to await final congressional action on these rescission proposals.

The proposal for converting general appropriations bills into mini bills, with numbered sections and unnumbered paragraphs sent separately to the President for his signature or veto, raises significant problems of timing and scheduling for Congress. The work of the enrolling would be immense, and the Appropriations Committees would no doubt spend additional time in constructing their bills to minimize presidential power. For example, they could combine sections and paragraphs in such a way that the President is faced with vetoing something he likes with something he doesn't like.

Item-veto authority would add to congressional workload also, as legislators take time to consider override votes on presidential actions. Item-

⁶ DeCosta v. Nixon, 55 F.R.D. 145, 146 (E.D. N.Y. 1972); Lear Siegler, Inc., Energy Products Div. v. Lehman, 842 F.2d 1102, 1117-18 (9th Cir. 1988).

⁶ 12 Op. Off. of Leg. Counsel 159 (prelim. print 1988).

⁷ 28 Weekly Comp. Pres. Doc. 512 (1992).

veto authority also has the potential of adding significantly to court challenges, particularly if Presidents decided to item-veto *conditions* on appropriations bills while retaining the funds. If Congress provided the President with funds on the condition that he abides by certain restrictions, could he delete the condition and retain the funds? Could he convert a conditional appropriation into an unconditional appropriation? State courts have had great difficulty in determining the authority of a governor to sever conditions from funding.⁸ Similarly, would the President be limited to vetoing only the entire item or could he *reduce* the amount of the item (item-reduction authority)? Could the President delete individual words from a sentence, letters from a word, or digits from a number? State courts have been embroiled with those issues for many years.⁹ Adoption of the item-veto for the President would most likely bring these disputes to the national level, consuming the time of all three branches in the search for constitutional boundaries.

⁸ Louis Fisher and Neal Devins, "How Successfully Can the States' Item Veto be Transferred to the President?," 75 Geo. L. J. 159, 169-173 (1986).

⁹ Id. at 166, 168, 171.



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THE ITEM VETO IN STATE COURTS

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Contemporary debates about state constitutional law have concentrated on the role of state constitutions in the protection of individual rights and have paid less attention to the state constitutional law of government structure.¹ This is ironic since the emergence of a state jurisprudence of individual rights has been hampered by the similarity of the texts of the state and federal constitutional provisions concerning individual rights, whereas many state constitutional provisions dealing with government structure have no federal analogues, and thus state jurisprudence in this area is free to develop outside the dominating shadow of the Federal Constitution and the federal courts. Moreover, as the "laboratories of democracy" metaphor suggests, the study of the structural features of state constitutions can enable us to consider alternative means of organizing representative democratic governments, assess the efficacy of different mechanisms for governing, and illuminate the implications and consequences of aspects of the federal government's structure that we ordinarily take for granted.

One of the distinctive structural features of state governments is the item, or partial, veto. Whereas under the Federal Constitution, the President must accept or reject in toto a bill passed by Congress, most state constitutions enable governors to veto items in appropriations bills while simultaneously approving other parts of those bills. The state item veto provisions have had an impact on federal constitutional debate. Citing the states' experience, Presidents Reagan, Bush, and Clinton have all called for some form of presidential item veto of congressional appropriations measures, and Congress and scholars have deliberated the wisdom of such a change.²

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1. See, e.g., James A. Gardner, *The Failed Discourse of State Constitutionalism*, 90 MICH. L. REV. 761, 316-22 (1992) (noting unique state constitutional provisions reflect citizens' character and "fundamental values"); Paul W. Kahn, *Interpretation and Authority in State Constitutionalism*, 106 HARV. L. REV. 1147, 1150-53 (1992) (discussing Justice Brennan's encouragement of state constitutional discourse as arena of "defending the individual against authority"). Much of the modern revival of interest in state constitutions stems from Justice Brennan's call for the development of a state constitutional jurisprudence that would offset the United States Supreme Court's perceived narrowing of rights during the Burger and, subsequently, the Rehnquist years. See William J. Brennan, Jr., *State Constitutions and the Protection of Individual Rights*, 90 HARV. L. REV. 489, 498-502 (1977).

2. Proposals to create a federal item veto date back to the Grant Administration and were debated during the 1930s. See Note, *Federal Legislation: The Item Veto in the American Constitutional System*, 25 GEO. L.J. 106 (1936). President Reagan repeatedly proposed that the federal constitution be amended to give the president an item veto. See generally *Symposium on the Line-Item Veto*, 1 NOTRE DAME J.L. ETHICS & PUB. POL'Y 157-233 (1985) (many articles note President Reagan's attempts to gain item veto power). Citing the powers of state governors, President Bush

Within the states, the item veto has been a fertile source of state constitutional litigation. By one count, there were approximately 120 state item veto cases from the nineteenth century through 1984.³ Moreover, the frequency of item veto litigation appears to be increasing. From 1985 through 1992, there were at least twenty-five state supreme court decisions construing the item veto provisions of state constitutions,⁴ with eleven decisions in the 1991-1992 biennium alone.⁵ Certain state supreme courts—Colorado, Florida, Iowa, Massa-

requested the item veto in his 1992 State of the Union Message. See *We Are Going to Lift This Nation Out of Hard Times*, WASH. POST, Jan. 29, 1992, at A14. The Senate subsequently considered and rejected Bush's request. See Helen Dewar et al., *Senate Rejects Line Item Veto*, WASH. POST, Feb. 28, 1992, at A14. President Clinton, who, like Ronald Reagan, wielded the item veto when he was a state governor, has also indicated he will seek the item veto power. See Mark Stencel, *Clinton's Pledges*, WASH. POST, Jan. 20, 1993, at A19.

3. RONALD C. MOE, PROSPECTS FOR THE ITEM VETO AT THE FEDERAL LEVEL: LESSONS FROM THE STATES 32 n.75 (1988).

4. Item veto decisions by state high courts from 1985 through 1990 include: *Harbor v. Deukmejian*, 742 P.2d 1290, 1298-99 (Cal. 1987) (governor not empowered to determine what is vetoable line item under "single-subject" rule); *Colorado Gen. Assembly v. Lamm*, 704 P.2d 1371, 1384-85 (Colo. 1985) (state constitution only permits governor to veto "distinct items" in appropriation bill); *University of Connecticut Chapter AAUP v. Governor*, 512 A.2d 152, 156 (Conn. 1986) (governor's statutory power to reduce particular "item" of allotment by 5% in appropriations bill does not have effect of "veto" and is not unconstitutional); *Florida House of Representatives v. Martinez*, 555 So. 2d 339, 345-46 (Fla. 1990) (state constitution prohibits governor from exercising partial veto by vetoing one of several funding sources for single purpose); *Martinez v. Florida Legislature*, 542 So. 2d 358, 362 (Fla. 1989) (governor may not veto summary statement of intent and legislative working papers that accompany appropriations bill); *Thompson v. Graham*, 481 So. 2d 1212, 1215 (Fla. 1985) (governor may veto line items of general appropriation bill but may not alter legislative intent); *Board of Trustees v. Burris*, 515 N.E.2d 1244, 1250 (Ill. 1987) (due to governor's item veto of appropriation, state controller may not disburse funds for state scholarship program); *Jenkins v. Branstad*, 448 N.W.2d 480, 485 (Iowa 1989) (judicial retirement bill appropriation bill subject to governor's item veto); *Colton v. Branstad*, 372 N.W.2d 184, 190-93 (Iowa 1985) (state constitution permits governor to veto words and phrases in "riders," i.e., unrelated pieces of legislation incorporated into appropriation bill); *Rush v. Ray*, 362 N.W.2d 479, 481 (Iowa 1985) (state constitution does not permit governor to veto qualifications on appropriations); *State ex rel. Coll v. Carruthers*, 759 P.2d 1380, 1383-84 (N.M. 1988) (state constitution permits governor to veto provisions, conditions, limitations, and any other "parts" of appropriations bills that intrude on executive managerial function); *Lipscomb v. State*, 753 P.2d 939, 943-47 (Or. 1988) (governor may veto emergency clause in nonappropriation bills); *Washington State Motorcycle Dealers Ass'n v. State*, 763 P.2d 442, 448-49 (Wash. 1988) (state constitution permits governor to veto "entire sections" of nonappropriations bills); *State ex rel. Wisconsin Senate v. Thompson*, 424 N.W.2d 385, 397-99 (Wis. 1988) (state constitution authorizes governor to exercise partial veto by vetoing individual letters, words, phrases, and digits from budget bill). For an additional 11 state item veto decisions for 1991 and 1992, see *infra* note 5.

5. See *Hunt v. Hubbert*, 588 So. 2d 348, 359 (Ala. 1991) (governor may not exercise line item veto after legislature has adjourned); *Rios v. Symington*, 333 P.2d 20, 31 (Ariz. 1992) (governor may veto line items but may not alter appropriations amounts); *Romer v. Colorado Gen. Assembly*, 340 P.2d 1081, 1084 (Colo. 1992) (governor must comply with constitutional requirement that bills be returned "with objections" for item veto to be valid); *AFSCME/Iowa Council 61 v. State*, 484 N.W.2d 390, 395-96 (Iowa 1992) (governor's item veto on provision in appropriation bill does not erase state's underlying contractual obligation); *Welsh v. Branstad*, 470 N.W.2d 644, 647-48 (Iowa 1991) (invalidating two item vetoes but sustaining the third); *Barnes v. Secretary of Admin.*, 586 N.E.2d 958, 960 (Mass. 1992) (state constitution permits governor not only to disapprove money appropriations, but also to reduce them in amount); *Opinion of the Justices*, 582 N.E.2d 504, 507-08

chusetts, Washington, and Wisconsin—have repeatedly wrestled with disputes over the scope and interpretation of the item veto.⁶ The item veto, thus, is an important aspect of state constitutional law in a number of states.

The volume of item veto litigation, however, is not necessarily a sign of a healthy state constitutional discourse.⁷ Rather, the very number of litigated cases indicates that even after decades of experience many critical issues in the interpretation of the item veto remain unresolved.⁸ The item veto alters the

(Mass. 1991) (governor may reduce sum of money appropriated or disapprove appropriation entirely, but may not change nonmonetary terms of appropriations); *Inter Faculty Org. v. Carlson*, 478 N.W.2d 192, 194-97 (Minn. 1991) (governor's power to veto to be narrowly construed and confined to entire "items"); *State ex rel. Sikston R-VI Sch. Dist. v. Ashcroft*, 828 S.W.2d 372, 376 (Mo. 1992) (permitting governor to allocate portion of appropriated funds to new programs pursuant to federal court orders for desegregation, provided total appropriation to public school system not altered); *Johnson v. Walters*, 819 P.2d 694, 698-99 (Okla. 1991) (governor may not exercise "partial veto" over nonappropriation portions of multi-subject bill).

6. Over the last two decades there have been four major item veto cases in Colorado, four in Florida, seven in Iowa, five in Massachusetts, three in Washington, and three in Wisconsin. In addition to the cases cited in notes 4 and 5, *supra*, see *Anderson v. Lamm*, 579 P.2d 620, 628-29 (Colo. 1978) (governor may properly veto substantive portions of appropriation bill, even individual footnotes, where such portions interfered with executive's administrative authority); *Brown v. Firestone*, 382 So. 2d 654, 671 (Fla. 1980) (governor may veto specific appropriations, not qualifications or restrictions on appropriations); *Weiden v. Ray*, 229 N.W.2d 706, 713-14 (Iowa 1975) (governor may not veto lawful qualifications upon appropriations under item veto amendment); *State ex rel. Turner v. Iowa State Highway Comm'n*, 186 N.W.2d 141, 152 (Iowa 1971) (appropriation that combines purpose and amount constitutes entire "item" that may be properly vetoed by governor); *Opinion of the Justices*, 428 N.E.2d 117, 123 (Mass. 1981) (governor may not constitutionally veto portions of bill that are "inseparable" and have effect of altering remainder's legislative goals); *Attorney Gen. v. Administrative Justice*, 427 N.E.2d 735 (Mass. 1981) (governor may not separate monetary appropriation items from accompanying restrictions or conditions for purposes of veto power); *Opinion of the Justices*, 425 N.E.2d 750, 753-54 (Mass. 1981) (governor may treat any separable provision attached to general appropriation bill as "item" for purposes of veto power); *Washington Fed'n of State Employees v. State*, 682 P.2d 369, 374-75 (Wash. 1984) (former judicial test of item veto validity abandoned; governor free to veto sections of enactment or appropriation items without judicial review); *Washington Ass'n of Apartment Ass'ns v. Evans*, 564 P.2d 788, 791 (Wash. 1977) (governor may not veto sections of bill if such veto would substantially alter scope of remaining sections), *overruled by Washington Fed'n of State Employees v. State*, 682 P.2d 369 (Wash. 1984); *State ex rel. Kieczka v. Conta*, 264 N.W.2d 539, 552 (Wis. 1978) (governor may exercise partial veto, even though bill's policy is thereby altered, provided remaining portions of appropriations bill constituted "complete and workable" law); *State ex rel. Sundby v. Adamany*, 237 N.W.2d 910, 918 (Wis. 1976) (governor may veto portions of items in appropriations bill, provided they are "separable provisions").

In addition, Florida and Wisconsin have modified their item veto provisions in response to certain state supreme court decisions. See FLA. CONST. art. III, § 3(a) (amended in 1968 in response to *Green v. Rawls*, 122 So. 2d 10 (Fla. 1960)); WIS. CONST. art. V, § 10 (amended in 1990 in response to *State ex rel. Wisconsin Senate v. Thompson*, 424 N.W.2d 385 (Wis. 1988)).

7. But see *Gardner*, *supra* note 1, at 778-805 (dearth of state judicial decisions interpreting state constitutional decisions indicates impoverished state constitutional discourse).

8. In its two most recent item veto cases, the Supreme Court of Washington repudiated the two doctrines that had governed its item veto decision-making during the first seven decades of this century. See *Washington State Motorcycle Dealers Ass'n*, 765 P.2d at 449; *Washington Fed'n of State Employees*, 682 P.2d at 784. The Supreme Court of Oklahoma also recently overturned a leading item veto precedent. See *Johnson*, 319 P.2d at 699.

balance of constitutional authority between a governor and a legislature, yet many state courts either fail to recognize this or are unable to articulate a vision of executive-legislative relations that adequately incorporates the changes affected by the item veto. Some state judges find the item veto to be a deviation from the standard federal constitutional "model" of executive-legislative relations, and, as a result, interpret the item veto grudgingly, rather than see it as constitutive of a separation of powers that differs from the federal norm.⁹ At the opposite extreme, one state supreme court has construed the item veto to give the governor enormous powers to modify legislation.¹⁰ Many courts reluctantly find themselves umpiring disputes between the political branches and engaging in highly fact-specific balancing that fails to provide clear guidance for the resolution of future disputes.¹¹

These state court difficulties are rooted in the two basic conceptual components of the item veto: the notion of an "item" and the often uncertain definition of an "appropriations bill."

The use of the item veto assumes that a bill is composed of separable parts, some of which a governor may subtract after the legislature has passed the bill without doing violence to the idea that the bill is still the legislature's product. There is, however, no obvious definition of an "item;" that is, there is often no easy way to determine whether a particular provision of a bill is itself a free-standing item and not an inseparable part of a larger item. Moreover, legislation is not just a matter of cobbling together discrete provisions into a bill. It is a process of negotiation and compromise in which the votes essential to the passage of a bill are attained by tying different elements together or by modifying minority proposals with new provisions, conditions, or restrictions until there is a majority ready to support the result. By putting asunder what the legislature has put together, the item veto results in laws that the legislature never passed. As a result, the item veto poses a profound challenge to the view of legislation as the domain of the legislature.

The limitation of the item veto to appropriations bills might appear to be capable of more straightforward application, but the increased complexity of state finances often makes the determination of what is an appropriations bill a knotty problem. At a time when state finances rely heavily on standing appro-

9. See, e.g., *Hunt*, 588 So. 2d at 364 (Houston, J., concurring) (item veto intended to be "narrowly or strictly construed so as not to thwart the lawmaking powers of the legislative department"); *Colorado Gen. Assembly v. Lamm*, 704 P.2d 1371, 1383 (Colo. 1985) (item veto "in derogation of the general plan of state government"); *Thompson v. Graham*, 481 So. 2d 1212, 1220 (Fla. 1985) (Ehrlich, J., dissenting) (item veto "deviat[ion] from the normal system of checks and balances").

10. See, e.g., Mary E. Burke, Comment, *The Wisconsin Partial Veto: Past, Present and Future*, 1989 Wis. L. REV. 1395, 1416-18 (Wisconsin's current interpretation grants broad and expansive partial veto powers to governor, even where veto's effect changes policy).

11. See, e.g., *Colorado Gen. Assembly v. Lamm*, 704 P.2d 1371, 1380 (Colo. 1985) ("In broad outline, it is the province of the general assembly to enact legislation and the province of the executive to see that the laws are faithfully executed. . . . The delineation of the dividing line between these powers is often difficult, and must be accomplished on a case-by-case basis."); *Brown v. Firestone*, 382 So. 2d 654, 663 (Fla. 1980) ("Our task here is to define and delimit the relationship between the gubernatorial veto power and the legislature's authority . . .").

priations, earmarked taxes, and revolving funds, it is often unclear whether legislation providing for the payment of the proceeds of a special tax into a particular fund, changing the distribution of earmarked taxes, making other interfund transfers, or altering the formula in an intergovernmental assistance program is an appropriation or general legislation. Even when a particular measure is clearly an appropriation it may be debatable whether a bill that combines appropriations and non-appropriations measures is an appropriations bill for item veto purposes.

This article considers the state courts' experience with the item veto. Part I sketches the origins and basic elements of the item veto and its relationship to other structural features of state governments. Parts II and III deal with two central issues of interpretation in state item veto litigation—the definition of an item and the definition of an appropriation bill. I suggest that in defining the scope of "item" and "appropriations bill," state courts are frequently influenced by the federal model of the proper balance of power between the executive and legislative branches in the enactment of legislation, even though the item veto alters that balance and changes the division of executive and legislative responsibilities. Conflicting opinions, shifting doctrines, and ad hoc decision-making may be the inevitable result.

I. THE ITEM VETO AND STATE CONSTITUTIONS

A. State Item Veto Provisions

The item veto, or partial veto, enables an executive to disapprove part of a bill while allowing the rest of it to become law. Although the exact language of the item veto differs from state to state, a typical provision is in the Arkansas Constitution:

The Governor shall have the power to disapprove any item or items of any bill making appropriation of money, embracing distinct items; and the part or parts of the bill approved shall be the law; and the item or items of appropriations shall be void, unless repassed according to the rules and limitations prescribed for the passage of other bills over the executive veto.¹²

Forty-three states provide for the item veto, including every state admitted to the Union since the Civil War and every state but one west of the Mississippi.¹³ In forty-two of those states, the item veto is limited to bills making appropriations;¹⁴ in Washington, the Governor enjoys the power of partial veto

12. ARK. CONST. art. VI, § 17.

13. See THE COUNCIL OF STATE GOVERNMENTS, THE BOOK OF THE STATES 49-50 (1992-1993 ed.). The only states without the item veto are Indiana, Maine, New Hampshire, Nevada, North Carolina, Rhode Island, and Vermont. North Carolina makes no provision for any form of gubernatorial veto. *Id.*

14. Several state courts have emphasized that the governor can wield the item veto only on bills containing more than one item of appropriation. See, e.g., *Perry v. Decker*, 457 A.2d 357, 360 (Del. 1983) (state constitution confers veto power only where bill contains more than one "distinct" item of appropriation of money); *Cenarrusa v. Andrus*, 532 P.2d 1082, 1089 (Idaho 1975) (court would

with respect to all legislation.¹⁵ At least ten states allow governors to reduce as well as to disapprove items.¹⁶ Many states permit governors to veto general legislation that the legislature has incorporated in an appropriations bill, although other states limit the item veto to monetary items.¹⁷ As with other gubernatorial vetoes, legislatures may seek to overturn the governor's action, but in most states a two-thirds vote is required to nullify an item veto.¹⁸

The item veto dates back to the second half of the nineteenth century. States first began to amend their constitutions to provide for an item veto of appropriation bills in the immediate aftermath of the Civil War.¹⁹ By the eve of

not consider acts of general legislation containing one item of appropriation as "appropriation" bill for purposes of line item veto); *Regents of State Univ. v. Trapp*, 113 P. 910 (Okla. 1911).

15. WASH. CONST. art. III, § 12. As a result of an amendment to this section, adopted in 1974, the Governor's power is more expansive with respect to appropriations than non-appropriations items. The constitution authorizes the Governor to "object to one or more sections or appropriations items while approving other portions of the bill" but provides that the Governor may not object to less than "an entire section, except that if the section contains one or more appropriation items he may object to any such appropriation item or items." *Id.* What is a "section" for purposes of Washington's section veto remains a subject of debate. See *Washington State Motorcycle Dealers Ass'n v. State*, 763 P.2d 442, 448 (Wash. 1988).

16. There is some uncertainty in the figure because some state constitutions expressly grant their governors the power to reduce items of appropriations, whereas in other states that power has emerged as an interpretation of the governor's power to disapprove items. Constitutional grants of the power to reduce may be found in Alaska, California, Hawaii, Illinois, Massachusetts, Nebraska, Tennessee, and West Virginia. See ALASKA CONST. art. II, § 15; CAL. CONST. art. IV, § 10(e); HAW. CONST. art. III, § 16; ILL. CONST. art. IV, § 9(d); MASS. CONST. art. LXIII, § 5; NEB. CONST. art. IV, § 15; TENN. CONST. art. III, § 18; W. VA. CONST. art. VI, § 51(11). The New Jersey Constitution authorizes the governor to "object in whole or in part" to items of appropriation. N.J. CONST. art. V, § 1(15). The authorization has been held to include the power of reduction. *Karcher v. Kean*, 479 A.2d 403, 416-17 (N.J. 1984). The Pennsylvania Supreme Court has determined that the item veto includes the power to reduce. *Commonwealth ex rel. Attorney Gen. v. Barnett*, 48 A. 976 (Pa. 1901). But see *Wood v. State Admin. Bd.*, 238 N.W. 16 (Mich. 1931) (governor lacks power to reduce items under item veto provision that does not mention power to reduce). The Wisconsin Supreme Court interpreted that state's item veto provision to allow the governor to veto digits in appropriation items, thereby effecting reductions, but it has not decided whether the governor may otherwise reduce items. *State ex rel. Wisconsin Senate v. Thompson*, 424 N.W.2d 385, 396-97 & n.17 (Wis. 1988).

17. Compare Opinion of the Justices, 425 N.E.2d 750, 753 (Mass. 1981) ("[T]he Governor may treat as an 'item' any separable provision attached to the general appropriation bill.") and *State ex rel. Turner v. Iowa State Highway Comm'n.*, 186 N.W.2d 141, 152-53 (Iowa 1971) (noting Governor's ability to treat any separable provision of general appropriation bill as "item") with *Jessen Ass'n, Inc. v. Bullock*, 531 S.W.2d 593, 599 (Tex. 1975) (disallowing veto of nonmonetary item) and *State ex rel. Cason v. Bond*, 495 S.W.2d 385, 392 (Mo. 1973) (same).

18. Of the 43 item veto states, 34 require a two-thirds vote for the legislature to override the governor's action. See THE COUNCIL OF STATE GOVERNMENTS, *supra* note 13, at 49-50. In five states, a three-fifths vote will suffice, and in four states the legislature may act by a simple majority. *Id.*

19. The item veto was first established in the Constitution of the Confederate States of America, although it was never exercised by the Confederate President. After the Civil War, it was immediately adopted by Georgia and Texas. See Roger H. Weils, *The Item Veto and State Budget Reform*, 18 AM. POL. SCI. REV. 782, 782-83 (1924).

World War I thirty-six states had given their governors the item veto.²⁰ The last state to adopt the item veto was Iowa, which added the provision to its constitution in 1968.²¹

B. The Item Veto in State Constitutional Perspective

The item veto represents the coming together of three widespread state constitutional policies: the rejection of legislative logrolling; the imposition of fiscal restrictions on the legislature; and the strengthening of the governor's role in budgetary matters. In other words, the item veto may be said to be at the confluence of the policies underlying the single-subject rule, the balanced budget requirement, and the executive budget.²²

1. Anti-logrolling

Like the single-subject rule, the item veto grows out of the state constitutional effort to control logrolling, or the practice of adding together in a single bill provisions supported by various legislators in order to create a legislative majority.²³ In such a situation, no one provision may command majority support, but the total package will. A related phenomenon is the attachment of minority provisions as legislative riders to bills enjoying majority support. In this way, a measure which could not have passed on its own enjoys a free ride on a more popular bill.

Most state constitutions seek to prevent logrolling by requiring legislatures to limit bills to a single subject.²⁴ The single-subject requirements, however, have largely failed to attain their intended purposes. The notion of a subject is inherently incapable of precise definition. As Professor Lowenstein has observed, "what constitutes a 'subject' is a matter of choice based on considerations of convenience, rather than some objective demarcation of the human mind. . . . [A]ny combination of concepts and things may appropriately be re-

20. See John A. Fairlie, *The Veto Power of the State Governor*, 11 AM. POL. SCI. REV. 473, 483 & n.20 (1917).

21. IOWA CONST. art. III, § 16.

22. See *Colton v. Branstad*, 372 N.W.2d 184, 192 (Iowa 1985) (purpose of item veto amendment to "balance proper legislative and executive powers with respect to the state budget" and to expand governor's role in state budgetary process).

23. See, e.g., *Hunt v. Hubbert*, 588 So. 2d 348, 360 (Ala. 1991) (Maddox, J., concurring) ("The general purpose of giving the governor 'line item' veto power over appropriations bills, at least in part, was to prevent 'logrolling,' a practice the framers of the 1901 Constitution attempted to preclude by other provisions of the 1901 Constitution, one being [the single subject rule.]"); *State ex rel. Coll v. Carruthers*, 759 P.2d 1380, 1383 (N.M. 1988) ("The major factors which prompted drafting of constitutions to include the item-veto were . . . most importantly, to prevent 'logrolling' tactics by the legislature."); *State ex rel. Link v. Olson*, 286 N.W.2d 262, 269 (N.D. 1979) (purpose of item veto to "prevent 'logrolling,' the practice of attaching riders of objectionable legislation to general appropriation bills").

24. According to one recent survey, 42 states have single subject provisions in their constitutions; this includes 40 of the 43 states that have the item veto. See Nancy J. Townsend, *Single Subject Restrictions as an Alternative to the Line-Item Veto*, 1 NOTRE DAME J.L. ETHICS & PUB. POL'Y 227, 248 & n.75 (1985).

garded as a 'subject' so long as there are people who find it expedient to so classify them."²⁵ Lacking a clear definition of "single-subject" and reluctant to intervene in the internal workings of the legislative process, courts have generally held that the single-subject rule is to be given a "liberal" interpretation and have strained to uphold the constitutionality of most challenged measures.²⁶ The invalidation of a state law for a violation of the single-subject rule is a rarity.²⁷

Nevertheless, logrolling continues to be a cause for concern. Courts and commentators have condemned the "practice of jumbling together in one act inconsistent subjects in order to force a passage by uniting minorities with different interests when the particular provisions could not pass on their separate merits."²⁸ The standard critique is that by combining multiple subjects supported by different interests into a single bill, logrolling impairs the quality of legislative deliberation and erodes the executive veto. Unrelated measures cannot be considered on their individual merits; instead, some legislators are compelled to accept measures they would otherwise oppose in order to win support for the measures they favor, while the governor may have to refrain from vetoing objectionable measures if those measures have been inserted into a bill containing legislation the executive desires.²⁹ Logrolling is particularly prevalent with respect to matters that provide discrete benefits to narrower interest groups while spreading the costs across the general public.³⁰

The item veto carries forward the anti-logrolling principle, but because it is more limited than the single-subject rule in two ways it may be more effective. First, the item veto is vested in the executive, a political actor. This both obviates the problem of having the courts pass on the political process and places the power to enforce the single-subject concern in a state officer who is far more likely to use it. Second, as noted, in every state but Washington the item veto is

25. Daniel H. Lowenstein, *California Initiatives and the Single-Subject Rule*, 30 UCLA L. REV. 936, 938-39 (1983).

26. See, e.g., *Dague v. Piper Aircraft Corp.*, 413 N.E.2d 207, 214-15 (Ind. 1981) ("[I]f, from the standpoint of legislative treatment, there is any reasonable basis for the grouping together in one 'act' of various matters, this court cannot say that such matters constitute more than one subject.").

27. See generally Millard Ruud, 'No Law Shall Embrace More Than One Subject,' 42 MINN. L. REV. 389 (1958) (discussing history, use by litigants, and efficacy of one-subject rule for laws); see also *Karcher v. Kean*, 479 A.2d 403 (N.J. 1984) (same); *Harbor v. Deukmejian*, 742 P.2d 1290 (Cal. 1987) (same); *Jessen Ass'n, Inc. v. Bullock*, 531 S.W.2d 593 (Tex. 1975) (addressing interplay of single-subject rule and item veto).

28. *State ex rel. Martin v. Zimmerman*, 289 N.W. 662, 664 (Wis. 1940); see also *Commonwealth v. Barnett*, 48 A. 976, 977 (Pa. 1901) (bills, "popularly called 'omnibus bills,' " that "join[ed] a number of different subjects in one bill . . . became a crying evil, not only from the confusion and distraction of the legislative mind by the jumbling together of incongruous subjects, but still more by the facility they afforded to corrupt combinations of minorities with different interests to force the passage of bills with provisions which could never succeed if they stood on their separate merits").

29. See generally Townsend, *supra* note 24, at 232-42 (discussing woes of "logrolling" at federal level).

30. See JAMES M. BUCHANAN & GORDON TULLOCK, *THE CALCULUS OF CONSENT* 131-45 (1962) (examining benefits and consequences of "logrolling" within democratic, simple-majority political system).

limited to appropriations. Rather than block all omnibus measures, the item veto focuses on the area most prone to pork barrel legislation and which the states have concluded most needs protection against logrolling and riders—the budgetary process.³¹

2. Balanced Budgets

Nearly all state constitutions require that state budgets be balanced.³² The item veto is closely associated with the effort to reduce state spending and balance state budgets. The spread of the item veto in the late nineteenth and early twentieth centuries was a response to concerns that state legislatures were profligate with state revenues. The turn of the century was an era of rapidly growing state spending, and the item veto, like the balanced budget requirement, was intended to control state spending. The item veto would enable the governor to control spending and meet the state constitutional requirement of a balanced budget at the start of the fiscal year.³³

The actual role of the item veto in balancing budgets and holding down state spending is uncertain. Empirical studies of the actual effects of the item veto on the size of state budgets are few, and those that do exist have found that the item veto is more commonly associated with partisan conflict, not fiscal restraint.³⁴ Many item vetoes are based on policy considerations that have little budgetary impact.³⁵ Indeed, some have suggested that the item veto actually promotes legislative fiscal irresponsibility, with a legislator “tempted to bolster himself politically by voting large sums of money to a popular cause” on the assumption that the governor will do the politically unpopular task of vetoing or reducing the appropriation.³⁶ Nonetheless, whatever the effect of the item veto

31. In addition, the single-subject rule was particularly ill-suited to policing logrolling in the appropriations process. Modern budget practices seek to address state spending comprehensively in one budget or general appropriations bill. By definition such a bill includes more than one subject; indeed, it ought to include all subjects that are matters for state appropriation. As a result many states exempt budget or appropriations bills from the single subject rule. See, e.g., COLO. CONST. art V, § 21. The item veto for appropriations bills in effect plugs this gap; multisubject appropriations bills remain but the governor can consider each item within the bill separately.

32. See THE COUNCIL OF STATE GOVERNMENTS, *supra* note 13, at 355-56.

33. See *Karcher v. Kean*, 479 A.2d 403, 416 (N.J. 1984) (“The constitutional line-item veto power serves the governmental need to have a balanced budget in place at the start of the fiscal year.”).

34. See, e.g., Glenn Abney & Thomas P. Lauth, *The Line-Item Veto in the States: An Instrument for Fiscal Restraint or an Instrument for Partisanship?*, 45 PUB. ADMIN. REV. 372, 373-76 (1985) (detailing results of 1982 mail survey that indicates item veto more commonly used for partisan purposes than for fiscal responsibility).

35. See James J. Gosling, *Wisconsin Item-Veto Lessons*, 46 PUB. ADMIN. REV. 292 (1986). Gosling’s study of the item veto in Wisconsin may be of limited applicability to other states since under the Wisconsin case law the governor has unusually broad item veto powers and this may permit its greater use on policy matters.

36. M. Nelson McGeary, *The Governor’s Veto in Pennsylvania*, 41 AM. POL. SCI. REV. 941, 943 (1947) (discussing how practice of veto discourages acceptance of responsibility by legislature); cf. L. Peter Schultz, *An Item Veto: A Constitutional and Political Irrelevancy*, 1 NOTRE DAME J.L. ETHICS & PUB. POL’Y 177, 186 (1985) (with federal item veto “Congress could act even more irresponsibly than it does at present, packing appropriations bills with questionable items. . . . Then a congressman

in practice,³⁷ its rationale is clearly linked to expenditure reduction and fiscal balance.

3. Executive Budget

Even in the early twentieth century it was recognized that the item veto alone was "insufficient to cope with the mounting costs of state government."³⁸ Reformers urged an administrative reorganization of state fiscal practices. "The outcome was a budget reform movement which swept the country and led to the enactment of budgetary legislation in forty-seven states."³⁹ The centerpiece of reform was the executive budget. Most states, either by constitutional provision or by statute, give the governor a central role in the budget process. The governor is usually responsible for submitting a budget to the legislature, and for carrying out budgetary goals once the budget is adopted.⁴⁰ The turn to the executive reflected the view that governors have the greater institutional motivation and capacity for achieving fiscal restraint. Legislators represent local constituencies and may be more likely to seek state tax dollars for local projects. The competition among local legislators for state moneys tends to drive up the overall size of the state budget. Governors may be more likely to seek state-wide budget goals and hold down the size of the budget because they answer to a state-wide constituency and are in a better position to assess the impact of spending measures on the state budget.

The item veto fits in with the executive budget structure and the balanced budget goal.⁴¹ Under the executive budget systems in most states, the governor submits a budget plan to the state legislature.⁴² The legislature must act by a certain date. If the legislature adds to the governor's budget, the governor may veto those items. The item veto makes it more difficult for the legislature to depart from the governor's spending plan.⁴³ Moreover, on the assumption that

could tell his constituents that he had promoted a certain project, only to have it vetoed by the President").

37. One recent study found that the item veto tends to lower state expenditures, but only when the governor and the majority in the state legislature belong to different political parties. See James Alm & Mark Evers, *The Item Veto and State Government Expenditures*, 68 PUB. CHOICE 1 (1991).

38. Wells, *supra* note 19, at 786.

39. *Id.*

40. See, e.g., THE COUNCIL OF STATE GOVERNMENTS, *supra* note 13, at 49-50.

41. Wells, *supra* note 19, at 782-83. As Roger Wells notes, the Confederacy's initiation of the item veto was accompanied by a requirement that proposals for expenditure must originate with the President. "To defend his budget estimates, the [Confederate] President was given the item veto. These provisions were intended to be a compromise between English financial procedures and prevailing American practice. Thus, at the outset, the item veto was associated with the idea of an executive budget." *Id.* at 782-83.

42. See, e.g., MICH. CONST. art. V, §§ 18-20; N.Y. CONST. art. VII, §§ 2-6.

43. See Wells, *supra* note 19, at 787. The presence of balanced budget requirements, executive budget structures, and single-subject rules at the state level may blunt the criticism of the item veto as a failed expenditure reduction device since, given these other structural features of state government, "the item veto at the state level is a supplemental rather than a primary budget-cutting tool." See Maxwell L. Stearns, *The Public Choice Case Against the Item Veto*, 49 WASH. & LEE L. REV. 385, 431 (1992).

the governor has submitted a balanced budget plan, the item veto enables the governor to maintain a balanced budget after the legislature has acted. The governor's authority is by no means absolute, since in every state the legislature can override gubernatorial item vetoes, usually by a two-thirds vote. But the item veto conforms to the judgment of most states of shifting the balance of power towards the governor with respect to appropriations.⁴⁴

The executive budget's simultaneous assumption of and provision for the primacy of the governor in fiscal matters was consistent with the traditionally limited institutional capacity of most state legislatures. Until three decades ago, state legislatures "were generally considered 18th century relics" with "little or no staff, and . . . heavily dependent on executive agencies and lobbyists for information."⁴⁵ Starting in the 1960s, however, most legislatures embarked on programs of modernization; added staff facilities, and sophisticated information and data processing systems; and reformed internal procedures. With their new information-gathering and oversight capacities, legislatures have developed fiscal expertise and "play an active role in reviewing and monitoring state budgets as well as overseeing the operation of state agencies."⁴⁶ Enhanced legislative capacity has led to increased legislative activism. Legislatures are more inclined to challenge gubernatorial budgetary priorities and to seek inclusion of legislative initiatives in state budgets. Much as the item veto assumes an executive-centered vision of state budget-making, increased legislative activism in budgetary matters has led to conflict and to the current upsurge in state item veto litigation.⁴⁷

II. DEFINING THE ITEM

A. The Problem

The item veto authorizes a governor to veto an "item" of a bill without vetoing the bill. But just what is an "item?" What part or parts of a bill are sufficiently discrete that they may be separated from the other parts and taken out of the bill without doing violence to the legislative process and legislative compromises that gave rise to the initial bill? This is a problem that the federal system does not face since the President can veto a whole bill only, and not a

44. See *Karcher v. Kean*, 479 A.2d 403, 406 (N.J. 1984) (governor's authority to propose budget and power to veto selectively confer significant responsibility for state's fiscal affairs and are essential to "efficient modern system of government").

45. Rich Jones, *The State Legislatures*, in *THE COUNCIL OF STATE GOVERNMENTS*, *supra* note 13, at 108.

46. Rich Jones, *The State Legislatures*, in *THE COUNCIL OF STATE GOVERNMENTS*, *supra* note 13, at 109.

47. See, e.g., Louis Fisher & Neal Devins, *How Successfully Can the States' Item Veto Be Transferred to the President?*, 75 GEO. L.J. 159, 184-85 (1986) (because item veto used more to accomplish political aims than to reduce budget, vetoes trigger numerous political battles and legislative challenges of gubernatorial vetoes); Stephen Masciocchi, Comment, *The Item Veto Power in Washington*, 64 WASH. L. REV. 391, 393 (1989) (distrust of executive authority in 1970s has led to resurgence of legislation, court challenges to item vetoes, and several amendments to constitutional item veto provisions).

part of a bill.⁴⁸ The item veto enables a governor to consider the parts of a bill separately, approving some and disapproving others. It, thus, empowers the executive to enact into law a measure that differs from the one the legislature passed. This works a major departure from the traditional separation of executive and legislative functions. The definition of a vetoable item, thus, raises a serious conceptual problem.

Disputes over whether a provision that a governor has sought to veto is in fact a vetoable item usually take two forms. The legislature and governor may disagree over the level of specificity at which the governor may wield his veto power. And the governor and legislature may clash over whether a non-monetary provision in an appropriations bill constitutes a discrete item or is inseparably wedded to an appropriation. Both conflicts grow out of the essential indeterminacy of the notion of an item.

To illustrate the problem of the level of specificity at which the item veto is to be used, a hypothetical may be instructive. Within the context of a state's education budget, may the governor veto the line appropriating funds for salaries for administrators at a specific four-year college, or is the proper item the entire appropriation for salaries at the college, the entire appropriation for that college, the entire appropriation for all four-year colleges, or the entire appropriation for higher education? Is the budgetary appropriation for higher education to be treated as a single item, with all the sub-items seen as inseparable parts of an overall legislative funding plan, so that (in the absence of the power to reduce) the governor must veto either all of it or none of it?⁴⁹ Or, if the budget makes more detailed specifications, may the governor apply the item veto at any level of detail she chooses?⁵⁰

Generally, if the legislature has made the more detailed specifications of appropriations, and it has not made the more general appropriation contingent on the more specific ones (or made the specific appropriations contingent on each other), the courts have allowed governors to apply the item veto to the more specific and smaller dollar items. However, courts have not always given clear guidance as to how specific the itemization in an appropriations bill must be.

Although some courts have recognized that inadequate itemization would

48. Some have suggested that the President may have the item veto power when Congress has aggregated unrelated subjects into a single bill. See generally J. Gregory Sidak & Thomas A. Smith, *Four Faces of the Item Veto: A Reply to Tribe & Kurland*, 34 NW. U. L. REV. 437, 449-52 (1990) ("subject veto" addresses legislative "logrolling" and arguably restores veto power to scope intended by framers of Constitution).

49. See *Commonwealth v. Dodson*, 11 S.E.2d 120, 127-31 (Va. 1940) (legislative provisions enabling attorney general to hire special counsel, creating position of Legislative Director of Budget, and placing restrictions or conditions on specific appropriations not "items" that governor can veto as they are inseparable parts of budgetary plan).

50. See, e.g., *Green v. Rawis*, 122 So. 2d 10, 17 (Fla. 1960) (overturning lower court and allowing governor to veto appropriation for two specific salaries within overall appropriation for wages and salaries); *Brault v. Holleman*, 230 S.E.2d 238, 244-45 (Va. 1976) (governor may veto sub-item of state aid for capital costs of metro rail without vetoing full item of state aid to Northern Virginia Transportation Commission).

undo the item veto power and have permitted sub-item vetoes despite the lumping of items by the legislature,⁵¹ others have been reluctant to allow the governor to veto parts of what the legislature has determined to be a single, broader item.⁵² Moreover, where legislatures expressly provide that the more general appropriation requires the allocation of specified funds to a particular sub-item, courts have often treated the more general appropriation and the more specific allocation as one item and have precluded the governor from vetoing the more specific sub-item.⁵³

The dilemma posed by the express conditioning of a general appropriation on a specific allocation of that appropriation may also be seen as an instance of the other major item definition problem—the relationship of the vetoed provision to the rest of the bill. Where one section of a bill is intertwined with another, the governor, by vetoing one section, may render a non-vetoed section meaningless or ineffective.⁵⁴ More commonly, the issue arises when the governor seeks to veto language within a bill section, such as a condition, restriction, or other proviso placed in an appropriation. Here the issue often is not simply the amount of state funds to be spent on a particular program but how that program will be implemented, or how the agency responsible for the program will be operated. Instances of legislative efforts to incorporate policy or administrative directives into an appropriation are manifold and diverse. For example, funds might be appropriated for the Department of Corrections “provided” prison overcrowding is reduced.⁵⁵ Funds for an agency might be made contingent on consultation with or review by a particular legislative committee before

51. See *Green*, 122 So. 2d at 15-17 (definition of “item” in terms of smaller appropriation motivated in part by need to avoid legislative evasion of item veto authority); *Fairfield v. Foster*, 214 P. 319, 323 (Ariz. 1923) (if legislature permitted to consolidate “items” and to “direct” how money is spent, governor’s veto power nullified); *People ex rel. State Bd. of Agriculture v. Brady*, 115 N.E. 204, 207 (Ill. 1917) (governor has power to veto items that are separate and distinct entries); see also *People v. Tremaine*, 21 N.E.2d 891, 894-96 (N.Y. 1939) (lump sum appropriations violate spirit of state constitutional requirement of itemization).

52. See, e.g., *Florida House of Representatives v. Martinez*, 555 So. 2d 839, 844-46 (Fla. 1990) (governor must veto entire appropriation; cannot modify or reduce); *Regents of the State Univ. v. Trapp*, 113 P. 910 (Okla. 1911) (“item” applies to general appropriation that must be wholly approved or rejected, not to specific objects and amounts); *Fulmore v. Lane*, 140 S.W. 405, 421 (Tex. 1911) (appropriation language preceding group of items evidence legislature’s intent to consider group as one appropriation).

53. See *Opinion of the Justices*, 428 N.E.2d 117, 122-23 (Mass. 1981) (governor could not veto part of item because legislature decides level of funding; governor may only disapprove or reduce entire item).

54. See, e.g., *State ex rel. Link v. Olson*, 286 N.W.2d 262, 270-71 (N.D. 1979) (governor could not veto section of bill because veto would destroy purpose and meaning); *Commonwealth v. Dodson*, 11 S.E.2d 120, 127-31 (Va. 1940) (legislative provision enabling attorney to have special counsel essential to office and “interlocked” with successful administration so cannot be vetoed by governor).

55. See, e.g., *Brown v. Firestone*, 382 So. 2d 654, 658, 668 (Fla. 1980) (governor’s veto of conditional proviso invalid because no identifiable fund in proviso); cf. *State ex rel. Turner v. Iowa State Highway Comm’n*, 186 N.W.2d 141, 148-50 (Iowa 1971) (appropriation to highway commission with proviso barring relocation of highway engineers’ offices did not constitute appropriation nor direct method of use).

appropriated funds are actually expended.⁵⁶ An appropriation might be made the basis of an administrative restructuring of the agency to be funded.⁵⁷ An appropriation might provide that funds for the appropriation must come from a specified source.⁵⁸ In some instances, legislative provisos test the bounds of germaneness by conditioning an expenditure on a state action not clearly related to the purpose of the appropriation.⁵⁹

In each of these examples, the legislature sought to use the appropriation to leverage an administrative or policy decision. In wielding the item veto, the governor sought to obtain the appropriation without being bound by the legislature's accompanying policy determination. The legislative actions raise the specter of the inappropriate combination of discrete policies in a single measure, that is, logrolling. But the governor's effort to sever an appropriation from the accompanying condition is an attempt to enact into law a provision the legislature never approved, and can be seen as an intrusion of executive power into the legislature's domain.

B. Three Approaches to Resolving the Legislative-Executive Conflict

Each case concerning the proper definition of a vetoable item implicates all three branches of state government. There is the direct clash between the executive and the legislature: the greater the discretion of the governor to excise bill language from the surrounding text, the greater is her power to shape the law enacted; conversely, the more the legislature may insist that elements in a bill are intertwined and that the governor can veto larger portions only, the more the legislature can determine budgetary policy and use the budget to attain other policy goals. The role of the judiciary is more subtle. In each case, the court must consider not only the proper balance of power between the executive and the legislature, but also how deeply judges ought to get involved in these conflicts between the political branches.

The state item veto decisions resist easy classification. Courts within a given state vary in their approach to the item veto over time and in different contexts. Nevertheless, at the risk of enormous oversimplification, I will organize the case law around three general approaches.

The first tends to favor the legislature, either by limiting the portions of an appropriations bill that a governor can veto, or by assimilating the item veto to the traditional executive veto in order to limit the governor's ability to disaggre-

56. See, e.g., *State ex rel. Coll v. Carruthers*, 759 P.2d 1380, 1385 (N.M. 1988) (legislative requirement that district attorney not use funds to purchase automated data processing or word processing equipment reasonable condition on appropriation and may not be vetoed by governor).

57. See, e.g., *Attorney Gen. v. Administrative Justice*, 427 N.E.2d 735, 735-39 (Mass. 1981).

58. See, e.g., *Colorado Gen. Assembly v. Lamm*, 704 P.2d 1371, 1384-85 (Colo. 1985) (restrictions on funding sources not separate items and could not be vetoed without vetoing remainder of items); *Opinion of the Justices*, 582 N.E.2d 504, 511 (Mass. 1991) (governor may not change specified funding source to general one, but may veto item that establishes funding source).

59. See, e.g., *Opinion of the Justices*, 582 N.E.2d at 510 (proviso intended to make changes in membership, operation, and deposit insurance coverage of Deposit Insurance Fund inserted into appropriation for office of Commissioner of Banks, who did not operate Fund).

gate the legislative compromises incorporated in a bill. In effect, the court will defer to the legislature's determination of how the portions of a bill fit together and whether two arguably severable provisions are really one item. This approach generates relatively predictable case law, but fails to appreciate how the item veto differs from the traditional veto and thereby erodes the item veto's anti-logrolling function.

The second approach relies on some of the basic conceptual assumptions of the first and seeks to maintain the legislature's primacy in determining the structure and contents of legislative bills, but recognizes that the historic purpose of the item veto was to enhance the executive's role and to empower the governor to undo some of the linkages of material within a bill. Courts pursuing this approach seek an ongoing reconciliation of executive and legislative prerogatives, but the balance struck by particular courts will often seem arbitrary, and the lack of consistency in judicial decisions increases the likelihood of future litigated conflicts.

The third, and least common, approach is to give the executive broad authority to determine the contours of a vetoable item. Like deference to the legislature, this approach raises the possibility of consistent, categorical decision-making. It also advances the item veto's historic purpose of enabling the governor to undo legislative logrolling. On the other hand, it dramatically shifts the balance of power between the legislature and the executive and gives the governor considerable capability to engage in unilateral law-making. An executive-centered approach to the definition of an item may follow from the logic of the item veto, but it is such a departure from the traditional approach to separation of powers that it has taken root in only one state—Wisconsin—and even there it has been the focus of considerable controversy.

1. The "Negative" Item Veto

Some courts have sought to avoid the difficulty of defining an item by adopting relatively mechanical rules that limit the scope of the item veto. Thus, some courts restrict the item veto to monetary items so that nonmonetary language may not be vetoed,⁶⁰ or accept the legislature's definition of bill sections, so that the governor could never break up a legislative section.⁶¹ These rules certainly curtail the number of disputes—although conflicts over the level of specificity at which the veto may be wielded would still remain—but they do so in a manner that endangers the item veto's purpose of giving the governor authority to unbundle appropriations measures and undertake a separate review and determination concerning every appropriation. A definition of an item

60. See, e.g., *State ex rel. Stephan v. Carlin*, 631 P.2d 668, 672 (Kan. 1981) (governor may not veto section of appropriations bill that is not "an item of appropriation of money"); *In re Opinion of the Justices*, 2 N.E.2d 789, 790 (Mass. 1936) (words and phrases not "items or parts of items"). The Massachusetts court subsequently abandoned this position in *Opinion of the Justices*, 423 N.E.2d 117, 120-23 (Mass. 1981).

61. *Washington State Motorcycle Dealers Ass'n v. State*, 763 P.2d 442, 443-49 (Wash. 1988) (constitutional amendment prohibits governor from vetoing "less than entire section of nonappropriation bill").

keyed to monetary amounts or section signs in a bill invites legislators to combine different appropriations or appropriations and conditions on those appropriations in the same section of a bill, or to resort to lump sum appropriations. This legislative response to a narrow judicial interpretation of the notion of "item" would limit the governor to the choice of signing or vetoing an entire multi-part appropriation or an appropriation that combines funding with policy language or administrative directives. Indeed, as one empirical study found, such clever legislative drafting has limited the efficacy of the item veto in many states.⁶²

Most state courts permit governors to veto nonmonetary words and phrases, but the dominant judicial analytical framework for considering the relationship of nonmonetary conditions and restrictions to the underlying appropriations continues to favor the legislature and to cabin the effect of the item veto on executive-legislative relations. For many courts, the critical distinction is between gubernatorial actions that are "negative," that is, those that block the enactment of legislation, and those that are "affirmative" or create new legislation. Consistent with the traditional relationship between the executive and legislative branches of government, the governor's use of the item veto must be negative, not affirmative. As one state supreme court put it,

The power of partial veto is the power to disapprove. This is a negative power, or a power to delete or destroy a part or item, and is not a positive power, or a power to alter, enlarge or increase the effect of the remaining parts or items. It is not the power to enact or create new legislation by selective deletions. . . . Thus, a partial veto must be so exercised that it eliminates or destroys the whole of an item or part or does not distort the legislative intent, and in effect create legislation inconsistent with that enacted by the Legislature, by the careful striking of words, phrases, clauses, or sentences.⁶³

The "affirmative/negative" test assumes that the affirmative/negative distinction can be drawn in theory, that courts can do so in practice, and that the distinction is consistent with the purposes of the item veto. It derives its appeal from the notion that the traditional role of the gubernatorial veto was wholly negative, with affirmative lawmaking solely a matter for the legislature. It reflects the view that either the item veto is really only a special case of the general gubernatorial veto, and not something different, and so should be interpreted accordingly; or, rather, that the item veto is an unwise "exception to the separation of powers otherwise required . . . and . . . in derogation of the general plan

62. See Abney & Lauth, *supra* note 34, at 373 ("Sixteen of the 37 respondents from states having the item veto reported that legislatures write appropriations acts so as to limit the item veto opportunities for the governor.").

63. State *ex rel. Sego v. Kirkpatrick*, 524 P.2d 975, 981 (N.M. 1974) (citations omitted); see also Colorado Gen. Assembly v. Lamm, 704 P.2d 1371, 1382-83 (Colo. 1985) (item veto "merely a negative legislative power" vesting governor with authority "to nullify but not to create statutes"); Brown v. Firestone, 382 So. 2d 654, 664 (Fla. 1980) (veto power intended to be negative power, "to nullify, or at least suspend, legislative intent" not "to alter or amend legislative intent"); Inter Faculty Org. v. Carlson, 478 N.W.2d 192, 194 (Minn. 1991) (item veto gives governor "negative authority, not a creative one . . . to strike, not to add to or even to modify the legislative strategy").

of state government"⁶⁴ and as such ought to be "narrowly construed to prevent an unwarranted usurpation by the executive of powers granted the legislature in the first instance."⁶⁵

The affirmative/negative test fails to recognize just how different the item veto is from the traditional executive veto. The traditional executive veto can be characterized as wholly "negative." A president or governor can prevent a legislative measure from becoming law, but cannot change any aspect of the measure that the legislature passed and cannot sign into law anything that the legislature has not already approved. Although in some circumstances this veto might be said to have "affirmative" attributes—e.g., when the executive vetoes a bill necessary to prevent an existing law from lapsing—the executive is not creating any new law that had not previously passed both chambers of the legislature.⁶⁶

The item veto, however, is quite different. Every time the governor wields the item veto, even in the most non-controversial setting, the governor is acting affirmatively. To veto an item and approve the remainder of a bill is always to enact a piece of legislation that the legislature had not approved. A bill missing an item that was in the bill the legislature passed is a different bill from the one the legislature passed. The "negative" instances of the item veto are a null set.

The judicial proponents of the affirmative/negative test, of course, assume that there will be many "negative" item vetoes, especially the vetoes of discrete monetary items which the item veto was plainly intended to allow. To find these vetoes to be "negative," judges implicitly rely on the proposition that the greater includes the lesser, that is, that the legislature that passed the bill-with-the-vetoed-item simultaneously passed the bill-without-the-vetoed-item. But it is not always the case that the legislature would have passed the bill without the vetoed item. The vetoed item may have been essential to win the approval of some member or group of members whose support may have been necessary to advance the bill, or other, non-vetoed items in the bill, at some critical stage in the legislative process. The vetoed item may have been vital to getting the bill out of committee or to winning majority support on the floor of one legislative chamber.

Legislation is a mechanism for the transmission of individual preferences over a wide range of issues into the collective choice of the legislature as a whole. The very process of reaching a collective preference affects the outcome. As one commentator has observed, "[s]tatutes are . . . the vector sum of political forces

64. *Lamm*, 704 P.2d at 1383.

65. *Inter Faculty Org.*, 478 N.W.2d at 194.

66. The executive's veto may have an affirmative lawmaking function in a different sense: by threatening to veto a legislative bill unless the legislature also passes measures she favors, the executive can leverage the authority to veto into the power to make laws. Indeed, a skillful executive can wield the veto threat to have a substantial effect on the shape of legislative measures. Nevertheless, there is a significant formal difference in the "affirmative" lawmaking potential of the two types of vetoes. With an executive limited to the traditional all-or-nothing veto, the legislature may choose not to give in to the executive's pressure and instead accept the veto, in which case no new law—either the legislature's or the executive's—is enacted. In the item veto case, the governor's action automatically creates a new law unless the legislature is able to summon up the supermajority necessary to override the veto.

expressed through some institutional matrix which has had profound, but probably unpredictable and untraceable, effects on the policies actually expressed."⁶⁷ Every bill emerges from a unique path marked by internal procedures, preliminary votes, leadership decisions, and political contingencies. "The winning majority consists of many legislators; their respective reasons for voting against the status quo may well be as varied as their number."⁶⁸ There is simply no way of knowing, as a general matter, if a particular bill would have passed had the legislators been advised at the outset that a particular item would be vetoed. The bill as a whole commanded a legislative majority; the bill without the vetoed item might have been supported by a minority. Thus, every item veto may, in theory, be a creative act, effectuating an affirmative change in the law.

To work, the affirmative/negative test requires a way of distinguishing those vetoes that produce a law that the legislature would have passed anyway—a truly "negative" veto—from those that undo a compromise or remove a provision essential to the affirmative vote of a critical legislator or group of legislators and thereby enact a law that the legislature would not have passed. One possible method of implementing the affirmative/negative test is to review closely the legislative procedure, votes, bargaining, and compromises that led to passage of the bill. But the legislative process is multi-faceted and marked by complex interactions, strategic behavior, and unrecorded subjective judgments by critical legislative players. The difficulties inherent in unpacking the history of any bill are compounded by the general paucity of legislative history materials at the state level. It is no surprise that few courts are eager to engage in this time-consuming and, often, ultimately fruitless enterprise.

The more common method of assessing legislative intent is to look at the text of the legislation itself. Frequently, courts have determined that if the legislature fails to make an appropriation expressly contingent on the vetoed provision that provision may be treated as a separate item.⁶⁹ However, where the legislation states that an appropriation is available "provided" that a nonmonetary provision is adhered to, or on "condition" of a specific restriction or compliance with a specific directive, then the legislature intends that the appropriation and the nonmonetary language be treated as linked, and the governor's attempt to veto the condition or proviso will be rejected as an invalid attempt to engage in "affirmative" lawmaking.⁷⁰ Although this construction will sometimes lead to judicial validation of gubernatorial item vetoes, legislators can quickly adapt to the judicial rules and learn to place language of condition throughout their

67. Jerry L. Mashaw, *The Economics of Politics and the Understanding of Public Law*, 65 CHI.-KENT L. REV. 123, 134 (1989).

68. Kenneth A. Shepsle, *Congress Is a "They," Not an "It": Legislative Intent as Oxymoron*, 12 INT'L REV. L. & ECON. 239, 244 (1992).

69. See *Attorney General v. Administrative Justice*, 427 N.E.2d 735, 738 (Mass. 1981) (veto of words and phrases permitted where "Legislature did not use conditional or restrictive wording in the disapproved provisions").

70. Compare *Weiden v. Ray*, 229 N.W.2d 706, 710-14 (Iowa 1975) (provision expressed as condition on appropriation may not be vetoed) with *State ex rel. Turner v. Iowa State Highway Comm'n.*, 186 N.W.2d 141, 148-50 (Iowa 1971) (provision not express condition on appropriation may be vetoed).

appropriations.⁷¹ As a result, a careful legislature will usually be able to craft provisos that are considered to be inseparably linked to appropriations.

This careful drafting may be indicative of a legislative intent that an appropriation not become law without the concurrent enactment of a condition attached to it. But the logic of applying the affirmative/negative test to make legislative intent the touchstone of the definition of an item is ultimately subversive of the item veto itself. On the theory that the affirmative/negative distinction is to be drawn according to the language of the bill, the legislature could draft the bill so that every element in the bill is contingent on the enactment of every other. In other words, the legislative intent would be that either all of the bill becomes law or none of it does. A gubernatorial veto of an item in such a bill would surely be affirmative lawmaking as it would alter legislative policy and create a bill inconsistent with the professed intent of the legislature. But plainly not permitting the governor to utilize the item veto on such a bill would render the item veto a nullity.

The affirmative/negative test fails not simply because it is in tension with the internal workings of the legislature in creating legislation, but because it misses the change in the distribution of power between the executive and legislature that the item veto is designed to effect. To undo the perceived harmful effects of legislative logrolling and to fortify the governor's primacy with respect to budget matters, the item veto gives the governor the power of separate consideration with respect to the various elements in an appropriations bill. This allows the governor to escape from the Hobson's choice posed by the legislative attachment of additional funding or undesirable conditions to the governor's budget proposals. As a result, the item veto inevitably gives the governor an affirmative power with respect to the creation of new legislation. The real question is not whether the governor's power is affirmative or negative, but, rather, what affirmative power the item veto ought to create.

2. Of Conditions and Riders: Judicial Efforts to Balance Legislative and Executive Prerogatives

The affirmative/negative distinction influences most state courts, although judges applying this test tend to ignore the inevitably "affirmative" quality of most item vetoes. If the legislature has paid careful attention to its drafting, this approach precludes the governor from vetoing conditions or restrictions attached to appropriations. A number of courts, however, even when professing to follow the affirmative/negative test, have looked past the language the legislature used to tie a condition to an appropriation and have sought to make a substantive judgment as to whether the vetoed language could be severed from the bill. These courts continue to hold that the governor may not sever a condition from the appropriation to which the legislature has attached it, but, con-

71. See Brent R. Appel, *Item Veto Litigation in Iowa: Marking the Boundaries Between Legislative and Executive Power*, 41 DRAKE L. REV. 1, 20 (1992) (interpreting Iowa Supreme Court as holding legislature "to a demanding standard of drafting if it wished restrictions to be a part of an item").

cerned that the legislature may use careful drafting to erode the item veto, they have found that the legislature's definition of what is a condition is not determinative. As the Massachusetts Supreme Judicial Court put it in one opinion, although the vetoed language was "cast in conditional terms . . . skillful drafting will not convert a separable piece of legislation to a restriction or condition on the expenditure of an appropriation."⁷² "Looking to the substance of the provisions," the court found the vetoed language separable from the appropriation.⁷³

Courts pursuing this approach seek to find a middle path that will prevent legislative circumvention of the veto authority without enabling the governor to assume legislative power. Such a middle path would preserve the traditional primacy of the legislature with respect to lawmaking but would recognize that the item veto represents a shift in power that enables the governor to disaggregate at least some legislative provisions. But the attempt to hold together both the traditional balance of power and the enhanced position of the governor can result in a zigzag course of decisions in which the judicial basis for permitting a veto in one setting and disallowing it in another may be difficult to discern. The course of the Iowa Supreme Court through five cases over two decades may be instructive.

In *State ex rel. Turner v. Iowa State Highway Commission*,⁷⁴ the Iowa court's first item veto case, the court held that the governor may veto nonmonetary items, and it sustained a veto of language inserted into the appropriation for highways which prohibited the relocation of the offices of permanent resident engineers. Consistent with the affirmative/negative approach, the court noted that the legislature had failed to make the highway appropriation expressly contingent on the relocation prohibition.⁷⁵ By the next item veto decision four years later in *Weiden v. Ray*,⁷⁶ the legislature had learned its drafting lesson, and the court invalidated the governor's vetoes of nonmonetary language that expressly restricted or conditioned appropriations on spending practices of the agencies funded by the appropriations.⁷⁷

Subsequently, over the votes of three dissenters, the court in *Rush v. Ray*⁷⁸ reiterated its position that the governor could not veto conditions on the use of appropriated money. The close division in *Rush*, however, may have indicated some discomfort with the affirmative/negative test. *Rush* concerned the veto of a provision attached to five appropriations that sought to exclude those appropria-

72. Opinion of the Justices, 428 N.E.2d 117, 122 (Mass. 1981).

73. *Id.*

74. 136 N.W.2d 141, 148-50 (Iowa 1971).

75. *Id.* at 149. In dicta, the *Turner* court also indicated that the legislature would not be permitted to evade the item veto by lumping all appropriations into one item. *Id.* at 152.

76. 229 N.W.2d 706, 710-14 (Iowa 1975).

77. *Id.* The vetoed language consisted, *inter alia*, of legislative efforts to limit the percentage of appropriated funds that could be allocated to any particular institution or program within an agency budget and to limit the number of permanent full-time employees in the affected agencies. *Id.* at 707-09. The court found these clauses "to be integral parts of the appropriations themselves" and thus "quite different" from the situation in *Turner* where the legislature had placed the appropriation in one bill section and the vetoed restriction on relocation of offices in a separate section. *Id.* at 714 (citing *Turner*, 136 N.W.2d at 150).

78. 362 N.W.2d 479, 481-82 (Iowa 1985).

tions from the general statutory mechanism for the inter-agency transfer of appropriated funds under specified circumstances.⁷⁹ Although the majority found that the governor's action would have made the appropriation "available for purposes not authorized by the legislation as it was originally written" and therefore was unconstitutional "affirmative" legislation by the governor,⁸⁰ the governor's veto would have preserved the existing legislative framework for inter-agency transfers and was, thus, arguably a "negative" action. More importantly, the legislature sought to effectuate a general change in state fiscal practices through provisos attached to appropriations. This compelled the governor to accept the proposed changes as the price for obtaining funding for state agencies. If the legislature had passed a separate bill, the governor could have considered the bill on its separate merits and vetoed it without risk to the appropriations. The provisos, thus, resembled the combination of appropriations and general legislation that the item veto was intended to permit the governor to undo.⁸¹ The Iowa court's heavy reliance on the bill's "condition" language, thus, contributed to an erosion of the governor's item veto power.

Shortly thereafter, in *Colton v. Branstad*,⁸² the Iowa court added a new twist to the affirmative/negative test when it held that the governor could veto a condition attached to an appropriation if the condition were really only a "rider." The provision in *Colton* was textual language attached to the appropriation to the State Department of Health that directed the Department to relinquish authority over certain federal grants to the State Family Planning Council.⁸³ Although the directive explicitly stated that it was "a condition of the appropriation," the Iowa court found that since the language did not "limit or direct the use of that appropriation" it was not a "condition" at all but a "contingency" or a "rider," and, thus, the governor could treat it as a discrete vetoable item separate from the attached appropriation.⁸⁴ In effect, the court treated the condition as a non-germane attachment—although the court also noted that the condition was sufficiently related to the underlying appropriation that the appropriation-rider combination did not run afoul of the state constitution's single-subject rule.⁸⁵ The court recognized that even if the spirit of the affirmative/negative distinction were to guide its definition of vetoable items, the need to protect the governor's item veto power meant that legislative drafting alone could not determine the contours of a vetoable item:

The Governor's constitutional power to veto bills of general legislation cannot be abridged by the careful placement of such measures in

79. *Id.* at 480.

80. *Id.* at 482-83.

81. *Cf. Henry v. Edwards*, 346 So. 2d 153, 158 (La. 1977) ("The Governor's constitutional power to veto bills of general legislation . . . cannot be abridged by the careful placement of such measures in a general appropriation bill, thereby forcing the governor to choose between approving unacceptable substantive legislation or vetoing 'items' of expenditure essential to the operation of a government.").

82. 372 N.W.2d 184 (Iowa 1985).

83. *Id.* at 185-86.

84. *Id.* at 190-92.

85. *Id.* at 192.

a general appropriation bill, thereby forcing the Governor to choose between approving unacceptable substantive legislation or vetoing 'items' of expenditure essential to the operation of government. The legislature cannot by location of a bill give it immunity from executive veto.⁸⁶

The Iowa Supreme Court applied the "condition/rider" distinction six years later in *Welsh v. Branstad*,⁸⁷ when it considered the governor's veto of language attached to an appropriation for tourism and export trade promotion activities which provided "as a condition, limitation, and qualification, any official Iowa trade delegation led by the governor which receives financial or other support from the appropriation in this subsection shall be represented by a bipartisan delegation."⁸⁸ Although the proviso used language of condition and limitation and purported to affect the spending of the funds provided by the appropriation, the court found it to be a vetoable rider because it did not affect "the amount or purpose of the appropriated funds."⁸⁹

The Iowa court's condition/rider distinction, as a reflection of its underlying goal of reconciling traditional legislative primacy over legislation with the item veto's express grant of power to the governor to disaggregate bills and give separate consideration to items, is well-intentioned but fraught with difficulty.⁹⁰ There is no obvious definition of a rider or clear distinction between a rider and a condition. As one member of Congress recently observed, "riders are simply amendments; they do not fall from the sky."⁹¹ The courts that have sought to follow the condition/rider distinction have yet to develop a test that clearly separates the former from the latter.

The Louisiana Supreme Court, for example, defined "riders" as measures that are "inappropriate provisions in a general appropriation bill;"⁹² provisos that "do not exhibit such a connexity [sic] with the appropriation of funds that they logically belong in a schedule of expenditures."⁹³ But what is "inappropriate" for an appropriation bill is a highly subjective judgment. Few legislatures really limit their appropriations bills to the simple granting of funds to an agency, or a specific unit within that agency, for a particular matter. The structure and operation of an agency could be established by general legislation; in-

86. *Id.* at 190-91.

87. 470 N.W.2d 644 (Iowa 1991).

88. *Id.* at 647.

89. *Id.* at 650.

90. Other courts attempting to pursue a similar condition/rider strategy appear to include Louisiana. *see* *Henry v. Edwards*, 346 So. 2d 153 (La. 1977) (item in general appropriations bill requiring legislative approval prior to disbursement of funds); Massachusetts. *see* *Opinion of the Justices*, 582 N.E.2d 504, 508 (Mass. 1991) (governor may veto any separable item even if item does not directly apportion money); and New Mexico. *see* *State ex rel. Coil v. Carruthers*, 759 P.2d 1380, 1384-85 (N.M. 1988) (restriction in general appropriation bill that funds could not be used for rental of parking space deemed not "an item of appropriation" and item could be vetoed without vetoing entire appropriation provision).

91. Mickey Edwards, *The Case Against the Line-Item Veto*, 1 NOTRE DAME J. L. ETHICS & PUB. POL'Y 191, 196 (1985).

92. *Henry*, 346 So. 2d at 153.

93. *Id.* at 162.

deed, typically, authorizing legislation directs the creation of a program in the first place. But the details of an appropriation bill inevitably affect the way the agency functions and the nature of the programs the agency undertakes. In the hurly-burly of the political process, legislatures often combine appropriations and non-appropriation matters that are theoretically distinct but in practice hard to keep apart. Language that is arguably general legislation is, thus, frequently a part of appropriations bills. There is no objective standard for determining whether a particular specification or detail is a part of the appropriation or an "inappropriate" addition.

The notion of "connexity" is similarly unhelpful. If it means "germaneness," then few provisions will be treated as riders. Although there is not much dispute in the courts that a nongermane proviso to the underlying appropriation can be treated as a rider, in most cases the arguable rider will be germane to the appropriation. In *Colton* and *Welsh*, for example, there was no contention that the riders were nongermane. If "connexity" is to have more bite than germaneness, then it is as vague and open-ended as "inappropriate." To ask whether a provision attached to an appropriation that seeks to affect the structure or performance of the agency funded by the appropriation has a "connexity" with the appropriation is simply another way of asking whether a condition attached to an appropriation is really a part of that appropriation or a separable piece of general legislation. The appropriateness and connexity tests simply restate the question of what an item is; they do not resolve it.

In *Welsh v. Branstad*, the Iowa Supreme Court suggested that the condition/rider line can be drawn "on the basis of whether the vetoed provision effectively qualified the subject, purpose, or amount of the appropriation either quantitatively or objectively;"⁹⁴ provisions that do not have that effect are vetoable riders. This test appears to be more precise and to provide a definition of an item of appropriation, but as the Iowa court's own decisions indicate, that appearance is deceptive, for the actual distinction is quite murky. The court has held that the governor may not veto a proviso attached to the appropriation funding a certain program that determines the number of full-time paid positions in that program.⁹⁵ Does a proviso controlling staffing "effectively qualify the subject, purpose, or amount" of the appropriation? Conversely, the court has sustained the governor's veto of the proviso, attached to the funding for trade missions, requiring those commissions to be bipartisan in composition.⁹⁶ Isn't the composition of an agency funded by an appropriation part of the "subject" of that appropriation? More to the point, are the two cases really distinguishable—is a proviso directing an agency not to cut its staffing really different, in terms of its relationship to the underlying appropriation, from a proviso requiring that the agency be bipartisan in composition?

As noted, there may be cases where the vetoed language actually has noth-

94. 470 N.W.2d 644, 649 (Iowa 1991); see also *Opinion of the Justices*, 582 N.E.2d at 510 (does proviso "affect the purpose of providing funds for the department" or "how the money was to be spent").

95. *Welsh*, 470 N.W.2d at 649.

96. *Id.* at 651.

ing to do with the underlying appropriation and in those cases the proviso may easily be treated as a rider. But as long as the proviso purports to direct the structure, function, operations, or procedures of the agency funded, it still in some sense affects the subject of the appropriation. A restriction may be a "condition" not simply as a matter of drafting, but because at some key step in the legislative process the restriction may have been crucial to the approval of the appropriation.

Just as the affirmative/negative test misses the fact that the item veto is always potentially affirmative, the attempt to apply the condition/rider test in terms of the "subject, purpose, or amount" of the appropriation ignores the possibility that in the legislative process the subject or purpose of the appropriation may be defined more broadly than the funding of a particular program and may instead include the structure, organization, or procedures of the agency receiving the appropriation. To say that these broader policy issues are not a part of the appropriation simply reopens the question of the appropriate place of language having broader policy consequences in an appropriation.

The condition/rider approach seeks to reconcile the item veto with traditional separation of powers concerns. Unlike the pure affirmative/negative approach it recognizes that a function of the item veto is to allow the governor to undo the effects of legislative logrolling and to enable the governor to give separate consideration to measures that the legislature preferred to tie together. It recognizes that the item veto changes the balance of power between the political branches, and that consistent with this change the legislature cannot be given unilateral authority to define a vetoable item. Yet the condition/rider test is also faithful to the traditional primacy of the legislature over legislation. Many restrictions will be treated as conditions and protected from the governor's separate itemization. The problem is that the condition/rider distinction is amorphous, if not indeterminate. It generates few predictable outcomes and instead results in considerable subjective judicial resolution of political conflicts.

The goal of integrating the item veto into the traditional executive-legislative relationship is an admirable one, and a number of state courts have attempted to resolve item veto questions through something like the condition/rider framework. That this approach is premised on an illusory distinction and leads to highly fact-specific ad hoc decision-making is less a fault of the courts than an indication of the depth of the conflict between the traditional separation of powers and the item veto.

3. The Executive-Centered Veto

Although most state courts have sought to view their item veto cases through the prism of the affirmative/negative distinction, sometimes modified by the condition/rider rule, the Wisconsin Supreme Court has articulated a dramatically different vision, interpreting the item veto to give the governor enormous quasi-legislative powers with respect to appropriations bills. The Wisconsin court has construed that state's item veto provision to enable the governor to veto words and phrases, even if they are expressed as conditions on an appropriation, and even when the effect of the gubernatorial action is to change

legislative policy completely. Thus, in *State ex rel. Sundby v. Adamany*,⁹⁷ the court sustained a gubernatorial item veto which, by artful deletions, altered the procedure for subjecting local tax increases to popular referenda. The legislative bill had provided for optional referenda, contingent on the timely submission of taxpayer petitions with a certain number of signatures, when local governments sought to raise their tax levy limits. The governor's veto, by striking certain words and phrases, made the local referendum mandatory. Similarly, in *State ex rel. Kleczka v. Conta*,⁹⁸ where the legislature created a system for the public financing of election campaigns and funded it by allowing taxpayers to "add-on" to their tax liabilities an additional dollar that would be placed in the state campaign fund, the governor, by clever use of the veto, converted the "add-on" to a "check-off" in which taxpayers could commit a dollar of their existing tax liabilities to the campaign fund.⁹⁹ Most recently, in *State ex rel. Wisconsin Senate v. Thompson*,¹⁰⁰ the Wisconsin court held that the governor could veto word fragments, individual letters from words, and individual digits from numbers. The only limitation the court would place on the governor's veto power is that "what remains after the veto must be a complete and workable law" and the result must be "germane" to the bill originally passed by the legislature.¹⁰¹

Wisconsin's executive-centered approach has two strengths: it safeguards the item veto from legislative efforts at circumvention, and it enables the judiciary to avoid the frequently subjective and always difficult effort of determining whether a governor's item veto is "affirmative" or "negative."¹⁰² But the Wisconsin approach goes far toward converting the veto authority into a broad affirmative law-making power. Indeed, the only limits on the Wisconsin governor's powers to craft new laws are the configuration of letters and digits on the pages of the legislature's appropriations bills and the governor's own powers of imagination.

The Wisconsin approach concentrates too much power in one branch of government; indeed, the power would be in the hands of one individual. It is no defense to say that the governor's action is subject to legislative override. So long as a mere one-third plus one of the members of one house of the legislature are willing to stand by the governor his item veto will not be overridden. It will be rare that a governor would be unable to command the support of enough mem-

97. 237 N.W.2d 910 (Wis. 1976).

98. 264 N.W.2d 539 (Wis. 1978).

99. As passed by the legislature, the bill read: "Every individual filing an income tax statement may designate that their income tax liability be increased by \$1 for deposit into the Wisconsin Election Campaign Fund for the use of eligible candidates." *Id.* at 545. Acting Governor Schreiber lined out the words "that their income tax liability be increased by" and the words "deposit into." *Id.* at 541.

100. 424 N.W.2d 385 (Wis. 1988).

101. *Id.* at 393.

102. The Washington Supreme Court cited the Wisconsin court's criticism of the subjectivity of the affirmative/negative test and the test's tendency to insert the courts into a political dispute when the Washington court also repudiated the affirmative/negative distinction as a limitation on the governor's power to veto bill sections to change legislative policy. See *Washington Fed'n of State Employees v. State*, 682 P.2d 869, 374-75 (Wash. 1984).

bers of his own party to stave off an override. Nor is it an adequate defense that the governor's "affirmative" lawmaking power is limited to appropriations bills so that the legislature could curb gubernatorial creativity by keeping general legislative matters out of appropriations bills.¹⁰³ As previously noted, appropriations and the programs those appropriations fund are often closely intertwined. It may be difficult, if not unwise, for the legislature always to seek to separate the two into different bills. In *State ex rel. Kleczka v. Conta*, the Wisconsin campaign finance case, for example, is it clear that it would have been preferable for the legislature to have separated into two bills the mechanism for the creation of the campaign fund and the appropriation for the fund solely to avoid the governor's power to convert the "add-on" into a "check-off"?

Even if the legislature could cabin the governor's power through a greater separation of appropriations and general legislation, and, perhaps, a new level of attention to the precise sequence of the letters used in legislative bills, the Wisconsin court's extreme approach would still be inconsistent with the historic purpose of the item veto. The item veto is an anti-logrolling device focused on appropriations. It enables the governor to disaggregate what the legislature has put together. At most, the governor's power to disassemble ought to be congruent with the legislature's power to put items together, but the Wisconsin decisions actually give the governor the even broader power of disassembling the words that constitute an item.

In a sense, the flaw in the Wisconsin approach is related to the court's "complete and workable law" test. While the result of a valid item veto must, of course, be a "complete and workable law" the item veto is not a grant of power to create entirely new laws. Rather, it authorizes the disapproval of "items," or, in Wisconsin, "parts."¹⁰⁴ The court inappropriately focused solely on the law-after-veto without also addressing the nature of the material vetoed. Given the background of the item veto, the governor must be limited to the veto of component parts of the legislature's bills. And while the scope of an item may be indeterminate, surely a bill is not constructed out of word fragments and letters. As the *Thompson* dissenters noted, "as a practical matter, legislators do not assemble legislative provisions by proposing and arranging individual letters."¹⁰⁵ Representatives legislate by combining concepts and proposals and translating those ideas into specific bill language. The text of a bill incorporates that collection of concepts: it is not "a potpourri of individual letters, an alphabet soup."¹⁰⁶ Not only the law that results, but also the material vetoed should be "complete and workable," in the sense of denoting the concept or policy or proposal vetoed.

Although all item vetoes have some affirmative or creative effect, allowing the governor to veto word fragments and letters extends the item veto well be-

103. *State ex rel. Wisconsin Senate*, 424 N.W.2d at 399 ("The solution is obvious and simple: Keep the legislature's internally generated initiatives out of the budget bill (unless the legislature is prepared to face the possibility of a partial veto).").

104. WIS. CONST. art. V, § 10.

105. *State ex rel. Wisconsin Senate*, 424 N.W.2d at 401 (Bablitch, J., dissenting).

106. *Id.* (Bablitch, J., dissenting).

yond the elimination of logrolling. It shifts the executive-legislative balance sharply in the executive direction. In this setting neither "complete and workable law" nor "germaneness" is much of a limitation on gubernatorial power. In Wisconsin the governor may be able to wield the item veto pen to produce a law that has the exact opposite effect of the measure that passed the legislature. The new law would be germane to the legislative measure and it could be "complete and workable," but it would still be largely the act of one man and would be enacted if he were able to persuade just one-third plus one of the members of one house of the legislature to protect the item veto from an override. Nor does it make for sound lawmaking to have a rule that permits the terms of the statute ultimately enacted to turn on something as fortuitous as the exact sequence of words used by the legislature or the cleverness of the governor in being able to splice words and letters together to create new concepts.

Indeed, in 1990 in the aftermath of the *Thompson* decision the Wisconsin voters approved a constitutional amendment which provides that in vetoing an appropriation bill "the governor may not create a new word by rejecting individual letters in the words of the enrolled bill."¹⁰⁷ This amendment properly limits the governor to the anti-logrolling function of the item veto. The governor's partial disapprovals may still have the effect of making new law, but that is only as a consequence of his unbundling of legislative packages—which the item veto is intended to permit. By its silence, this amendment preserves the Wisconsin case law that gives the governor the power to veto digits—which gives him a partial power of item reduction—and to veto words and phrases in a manner that changes legislative policy and creates new legislation, as in the *Kleccka* and *Sundby* decisions. As a result, the Wisconsin governor still has the broadest item veto power in the country.¹⁰⁸ But, with the 1990 amendment, the Wisconsin rule has the advantages of reflecting the changes in the executive-legislative relations that the governor's power to undo legislative compromises necessarily entails, while providing a clear rule for all three branches of government that avoids the subjective applications of the arbitrary affirmative/negative test and minimizes judicial involvement in executive-legislative conflicts. If it still leaves the governor with far too much law-making power, the fault may be with the item veto itself rather than with the Wisconsin court's interpretation.

In short, none of the three approaches to the definition of a vetoable item is satisfactory. The narrow approach confines the item veto power and constitutes an invitation to the legislature to evade the governor's authority through the

107. WIS. CONST. art. V, § 10(1)(c).

108. See Dennis Farney, *When Wisconsin's Governor Wields Partial Veto, the Legislature Might as Well Go Play Scrabble*, WALL ST. J., July 1, 1993, at A16. Another state court that has given its governor broad item veto authority is the Supreme Court of New Jersey. In *Karcher v. Kean*, 479 A.2d 403 (N.J. 1984), the New Jersey Supreme Court held that the governor may veto "general and broad conditions affixed to the expenditure or use of appropriated funds . . . without necessarily and simultaneously eliminating or reducing any specific item of appropriated funds." *Id.* at 416-17. The court interpreted the item veto provision of the state constitution to include the veto of "parts" of items of appropriations and concluded that the governor enjoyed that "broad discretion"; to veto conditions. The court did not articulate a general definition of a vetoable item or consider whether the governor could veto individual words, as can the Governor of Wisconsin.

agglomeration of matters in single sections of bills. The broad approach protects the item veto but at the price of a definition of "item" that strains credulity and effects an enormous extension of the governor's law-making power. The middle path is more sensitive than the others to the purpose of the item veto and seeks to reconcile the item veto with traditional concepts of separation of powers rather than have one ignore or displace the other. The middle approach, however, vests enormous discretion in the judiciary and so far has failed to produce a coherent standard for resolving item veto disputes or predicting the outcome of future item veto cases.

III. THE DEFINITION OF APPROPRIATIONS BILL

Forty-two of the forty-three states that grant their governors the item veto authority limit it to "appropriations bills."¹⁰⁹ Just like "item," "appropriations bill" is a term in need of a definition, yet most state constitutions do not provide one. The definition of an appropriations bill raises two questions: how to categorize a bill that combines appropriations with general legislation; and whether a measure that affects the spending of state funds, but does not actually appropriate those funds, is an appropriation. These issues are not as conceptually knotty as those involved in the definition of an "item." Nevertheless, their resolution has considerable impact on the scope of the governor's item veto authority.

A. The Combination of Appropriations and General Legislation

When the legislature combines appropriations and general legislative provisions in the same bill is the result an appropriations bill? Courts have pursued three general approaches to the definition of "appropriations bill." Some would limit the availability of the item veto to only those bills that have the "primary purpose" of making appropriations. Others would permit the item veto in any bill that makes an appropriation, even if the bill is largely devoted to other purposes.¹¹⁰ And one court would permit the item veto to apply in a bill making an appropriation with a significant effect on state government.

The leading "primary purpose" case is also the only United States Supreme Court case dealing with the item veto—*Bengzon v. Secretary of Justice of the Philippine Islands*,¹¹¹ which involved the construction of the item veto provision of the Philippines' territorial constitution. In *Bengzon*, the United States Supreme Court held:

an appropriation bill is one the primary and specific aim of which

109. The only exception is Washington. See WASH. CONST. art. III, § 12.

110. A handful of state courts have held that because the texts of their constitutions make the item veto available only for bills making "items" of appropriation, a requirement for the item veto is that the bill make more than one appropriation. See, e.g., *Perry v. Decker*, 457 A.2d 357, 360 (Del. 1983) (use of plural "appropriations" indicated exclusion of bills making only one appropriation); *Cenarrusa v. Andrus*, 582 P.2d 1082, 1089 (Idaho 1978) (allowing item veto of appropriations bill suggests that item veto does not apply to bills making a single appropriation). Even in these states, there will be some question whether a bill that makes two appropriations and also contains considerable general legislative matter is an appropriations bill.

111. 299 U.S. 410 (1937).

is to make appropriations of money from the public treasury. To say otherwise would be to confuse an appropriation bill proposing sundry appropriations of money with a bill proposing sundry provisions of general law and carrying an appropriation as an incident.¹¹²

At the opposite end of the spectrum, several state supreme courts, including those of New Mexico and Wisconsin, have found that any bill that contains an appropriation is an appropriation bill. Thus, the item vetoes in the *Sundby* and *Kleccka* cases occurred in bills which had the primary purpose of regulating local levy limits or creating a state election campaign fund. The Supreme Court of New Mexico, in *Dickson v. Saiz*, sustained a veto of a portion of the state Liquor Control Act which dealt with Sunday sales; presumably the bill had an appropriation in it somewhere, but it was never discussed in the opinion and was clearly not the primary purpose of the bill.¹¹³

In the middle here as in the definition of a vetoable item is the Iowa Supreme Court which recently rejected both the "primary purpose" and the "any appropriation" tests and determined that the "proper test is to review each bill on an ad hoc basis and determine whether the bill contains an appropriation which could significantly affect the governor's budgeting responsibility."¹¹⁴

By limiting the availability of the item veto, *Bengzon* is congruent with the federal constitutional setting, where the item veto is an aberration and distorts the traditional separation of powers. But in the state constitutional setting, where the item veto was intended to alter the separation of powers and enhance the role of the governor in the budgetary process, the primary purpose test creates incentives for evasion and is, in any event, difficult to apply. The "primary purpose" approach gives the legislature considerable power to exempt bills containing appropriations from the item veto by the simple expedient of combining appropriations with other types of legislation. Under the primary purpose test, once enough non-appropriations matter is included, an appropriations bill would be converted into a piece of general legislation and immunized from the item veto.

The primary purpose test can also be highly subjective. How is the primary purpose of a bill to be determined? Is it by the percentage of the bill's text—the number of sections, pages, or lines—devoted to appropriations and to non-appropriations purposes? If so, then the applicability of the item veto could turn on the constitutional irrelevancy of the detail, rather than the scope, of the general legislative portion of the bill. In a bill that created a new program and provided the appropriations necessary to fund it, a short description of the program might lead a court to conclude that the bill was primarily an appropriations measure,

112. *Id.* at 413.

113. 308 P.2d 205 (1957); see also *State ex rel. Sego v. Kirkpatrick*, 524 P.2d 975, 981 (1974) (item veto applies to "bills of general legislation, which contain incidental items of appropriation, as well as general appropriations bills").

114. *Junkins v. Branstad*, 448 N.W.2d 480, 484-85 (Iowa 1989); see also *Thompson v. Graham*, 481 So. 2d 1212 (Fla. 1985) (permitting item veto in bill in which only one of bill's 300 sections contained appropriation because sum of money involved and number of projects funded made appropriation more than "incidental").

while a more extensive description might cause a court to determine that the appropriation was only secondary. A less mechanical, more qualitative approach might seem less arbitrary but each controversial item veto could lead to a court contest in which the governor and legislative leaders would offer to the judge conflicting evidence concerning the intent and effect of a piece of legislation. The courts would be compelled to examine the inner workings of the legislative process, and perhaps, the motives of legislators in sponsoring or voting for a measure, in order to determine the primary purpose. In any particular case the results of the "primary purpose" test would be impossible to predict and the determination of "primary purpose" would inevitably be the product of a subjective judgment.

The same uncertainty plagues Iowa's significant effect test. Is there to be a dollar threshold for significance, or a minimum percentage of the total state budget? It is not at all clear how significant an effect must be to qualify as a "significant effect," nor is it clear how significance is to be determined.

The "any appropriation" test is an executive-centered approach, but that is less problematic in the definition of an appropriations bill than in the definition of an item. The "any appropriation" standard is easier to apply than either of the other tests and it is more clearly consistent with the history and purpose of the item veto: to permit the governor to give separate consideration to, and make a separate determination about, every item of appropriation. This reflects the concern, under an executive budget system, that the governor play a primary role, subject to legislative override, in determining the state's budget; that the governor be able to limit appropriations in order to meet balanced budget requirements and achieve the general goal of fiscal restraint; and that the governor be able to unbundle appropriations measures and pass on each item of appropriation separately. Although the "any appropriation" test expands the governor's authority, this is just the kind of alteration in the balance of legislative-executive power that the item veto was intended to achieve. Moreover, the legislature can protect itself by adhering to a strict separation of appropriations and non-appropriations matters, thereby vindicating the single-subject rule as well.¹¹⁵

B. What Is An Appropriation?

The question of what is an appropriation requires a court to determine when legislative action would clearly commit the state to the expenditure of state funds for a public purpose.¹¹⁶ One issue is the relationship of an appropriation to an authorization to spend state money on a specific program. An authori-

115. The "any appropriation" test is particularly appropriate in states that allow the governor to veto nonmonetary items and legislative riders on appropriations. If the item veto authority exists when appropriations and non-appropriations provisions are found in the same bill, and can be applied to the nonmonetary items, why should it matter that a bill contains more non-appropriations items than appropriations items? The threats to the executive budget, fiscal constraint, and the anti-logrolling principle are posed whenever appropriations and non-appropriations provisions are combined, whatever the proportion.

116. See *Jenkins*, 448 N.W.2d at 483 (test for "appropriation" whether money may be paid or drawn on authority of act).

zation is an essential precondition for subsequent spending. It may create a political climate in which the state feels compelled to appropriate the funds necessary to honor the commitment in the authorization. It may be quite specific, as in the adoption of a formula for aid to localities or the poor or for the payment of private parties who provided state-subsidized services to the poor. Such an authorization may give rise to a claim of entitlement on the part of the intended recipients and, thus, have a powerful impact on state spending. The effects of such authorizations and aid formulas on state budgets support an argument that they be treated as appropriations for item veto purposes even if they are not appropriations in the technical sense. Nevertheless, state courts have generally adhered to a formal definition of appropriations and have excluded from the definition of appropriation authorizations and other substantive legislation that create spending programs but do not actually appropriate funds.¹¹⁷

This interpretation of appropriation has had the effect of limiting the item veto without undermining it. The authorization/appropriation distinction has a long pedigree, and may have been assumed by the drafters of state item veto provisions. It may also be that rigid adherence to this formal distinction is more judicially manageable than a standard requiring the courts to gauge the effect of an authorization measure on state spending. The sharpness of the distinction has also sometimes benefited governors, as state courts have held that governors may veto or reduce appropriations without having to veto the underlying authorization for the entitlement program that the legislature intended to implement through the appropriation.¹¹⁸

More thorny than the appropriation/authorization distinction have been the difficulties created by the states' increased utilization of earmarked taxes and special funds. The traditional conception of the state budget is that revenues are collected from taxes and other sources and deposited into the state's general fund and then annually or biennially appropriated for the purposes specified in the budget. Today, however, many states rely extensively on special taxes and special funds. Taxes may be authorized with the requirement that the revenues be earmarked for deposit into a special fund which may be used only for a special purpose. This may make the tax more acceptable politically and may give the beneficiaries of the funded program greater assurance that the expenditures

117. See, e.g., *Thomas v. Rosen*, 569 P.2d 793, 797 (Alaska 1977) (bond issue authorization not appropriation); *Harbor v. Deukmejian*, 742 P.2d 1290, 1296 (Cal. 1987) (provision requiring AFDC benefits to be paid from date of application rather than from date application processed, and ultimately requiring payment of additional funds from state treasury, is substantive measure and not appropriation); *State ex rel. Akron Educ. Ass'n v. Essex*, 351 N.E.2d 118, 120 (Ohio 1976) (change in formula for calculating state aid to school districts not appropriation); *State ex rel. Finnegan v. Dammann*, 264 N.W. 622, 624 (Wis. 1936) (revenue bill intended to fund state program not appropriation); cf. *Karcher v. Kean*, 479 A.2d 403, 410 (N.J. 1984) ("[T]he operative statutes imposing the public utilities franchise and gross receipts taxes and providing for their distribution are not themselves appropriations.").

118. See, e.g., *People ex rel. I.F.T. v. Lindberg*, 326 N.E.2d 749, 752 (Ill.) (governor permitted to reduce amount of appropriations made to pension fund), *cert. denied*, 423 U.S. 339 (1975); *Barnes v. Secretary of Admin.*, 586 N.E.2d 958, 961 (Mass. 1992) (governor's reduction by 50% of emergency assistance program within power of item veto).

will ultimately be made. Is the deposit of tax dollars into a special fund to be treated as an appropriation?

If the focus of analysis is on the expenditure of state funds for a public purpose, then the deposit into the special fund may not be an appropriation. After all, the mere placement of tax dollars in the special fund does not mean they will be spent and it is conceivable that subsequent legislative changes will return those dollars to the general fund. On the other hand, if the focus is on the segregation of the tax dollars from the general fund and the commitment of the revenue to the designated statutory purpose, then the creation or deposit of funds into a special fund might very well be treated as an appropriation.¹¹⁹ Indeed, the more a special fund resembles a "locked box" from which moneys can be withdrawn only as expenditures for the statutory purpose, the more the deposit of moneys into the fund resembles an appropriation.

The situation becomes more complicated as the special funds, and the relationships among the general fund and various special funds, become more complex. Are measures that redesignate certain tax revenues from one special fund to another,¹²⁰ or that transfer funds out of the special fund and back to the general fund, appropriations?¹²¹ Some special funds consist of moneys received from private contributions (such as withholding from state employees) and general fund dollars as well as earmarked tax revenues. Are changes in the formulas for payments into the funds, with concomitant changes in the amount of general fund dollars placed in these funds, appropriations?¹²²

There is no consistent line of decisions among the state courts, but in a number of cases the court's resolution of the definition of an appropriation was plainly influenced by its attitude toward the item veto, and the item veto's effect on the traditional separation of powers. Thus, the Iowa Supreme Court, citing its general view that the item veto "gives the governor a larger role in the state budgetary process," determined that "the allocation of funds . . . into a separate and distinct fund that the State can no longer utilize for other purposes absent subsequent legislation is an appropriation" for item veto purposes.¹²³ Similarly, the Arizona Supreme Court has held that legislation transferring funds out of a special fund is an appropriation subject to the governor's item veto power because such an action would reduce the amount of the previous deposit into the special fund. Such transfers would reduce the appropriation for the specially funded purpose: "The Constitution does not permit such reductions free of gubernatorial oversight. To hold otherwise . . . would seriously limit the Execu-

119. See *Rios v. Symington*, 333 P.2d 20, 25 (Ariz. 1992) (transfer of funds from special funds to state's general fund is appropriation).

120. See *Johnson v. Carlson*, 494 N.W.2d 516, 518-19 (Minn. Ct. App. 1993) (governor's item veto, resulting in redirection of special funds, deemed unconstitutional).

121. See, e.g., *Rios*, 333 P.2d at 26-27 (transfer of funds from special to general fund appropriation and subject to item veto).

122. See, e.g., *Junkins v. Branstad*, 448 N.W.2d 480, 484 (Iowa 1989) (set aside of specific funds deemed appropriation).

123. *Id.* at 483-84.

tive's constitutional role in the appropriation process."¹²⁴ On the other hand, a Minnesota court recently held that the transfer of certain earmarked tax dollars from one special fund to another did not involve an appropriation.¹²⁵ As the court acknowledged, its decision was largely driven by a previous Minnesota Supreme Court decision that determined that the governor's item veto "is an exception to the authority granted to the legislature" and "must be narrowly construed."¹²⁶

As the Iowa and Arizona cases suggest, the item veto and the executive budget are intended to give the governor an enhanced role in the state budgetary process and in the determination of state fiscal priorities. These factors counsel against a narrow definition of appropriation and suggest instead that when legislation depositing state moneys into a special fund effectively subtracts those funds from the general fund and commits them to a particular program, the purposes underlying the item veto require that such legislation be treated as an appropriation. It may at times be uncertain, however, just how locked up the moneys in a special fund are, and the state courts have only begun to address this question.

Moreover, as the Minnesota decision suggests, the definition of appropriation is inevitably shaped by judicial attitudes concerning the impact of the item veto on executive-legislative relations.¹²⁷ Courts concerned that a governor may use the veto power to "modify the legislative strategy"¹²⁸ may be apt to define "appropriation" not solely in terms of state budget practices and the effect of special fund mechanisms on the general fund but also in terms of a concern to cabin the governor's power.

In short, in the definition of "appropriation bill," as in the definition of an "item," state courts have had to grapple with the uncertainties of language in the light of contemporary fiscal and institutional practices in state government. And, as with the definition of "item," the resolution of this issue has powerful implications for the distribution of power between the executive and the legislature.

CONCLUSION

As the state item veto cases indicate, the item veto is not simply a mechanical device for increasing executive control over the budget or reducing fiscal imbalances. Rather, by altering the role of the executive in the enactment of laws, the item veto opens questions about basic structural arrangements. The item veto forces us to think closely about the relationship of the parts of a bill to each other and to the bill as a whole; to consider the degree to which the executive's power to unravel legislative packages conflicts with our customary notions of legislative intent and the way in which legislatures reach agreement; and to

124. *Rias*, 333 P.2d at 26.

125. *Johnson v. Carlson*, 494 N.W.2d 516, 518 (Minn. Ct. App. 1993).

126. *Id.* at 517.

127. *Id.* at 518.

128. *Id.* (quoting *Inter Faculty Org. v. Carlson*, 478 N.W.2d 192, 194 (Minn. 1991)).

address the meaning of appropriation at a time when state finances are seriously affected by measures that do not fall within the traditional definition of appropriation. Although the item veto has long been a part of the state budget process, these issues remain unresolved or inadequately resolved in many states. This may be attributable to their inherent difficulty. Indeed—to return for a moment to the value of state constitutional law as a “laboratory” of democratic experimentation and a potential model for federal constitutional changes—if Congress, driven by fiscal and political concerns, should ever decide to give serious attention to the state item veto as a model for the Federal Constitution, it must also give comparable attention to the questions of interpretation and allocation of law-making responsibility that result when the item veto is grafted onto the long-standing federal system of separation of powers.



Comptroller General
of the United States
Washington, D.C. 20548

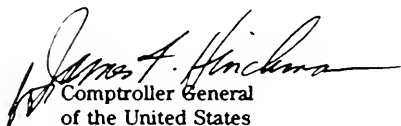
B-258826

November 17, 1994

To the President of the Senate and the
Speaker of the House of Representatives

In order to keep the Congress apprised of the amount and frequency of rescissions proposed and enacted we have updated our previous compilation of historical information and statistics regarding rescissions proposed by the executive branch and rescissions enacted by the Congress through the close of the fiscal year. These statistics were prepared in accordance with the same scope and methodology used in compiling our previous tables.

I trust you will find this information useful.


Comptroller General
of the United States

Enclosures

SUMMARY OF PROPOSED AND ENACTED REVISIONS

FISCAL YEARS 1974 - 1990

(Continued)

(All legislative action through October 1, 1991)

Fiscal year	Revisions proposed by President	Dollar amount proposed by President for rescissions	Proposals accepted by Congress	Dollar amount of proposals enacted by Congress	Revisions initiated by Congress	Dollar amount of rescissions initiated by Congress	Total rescissions enacted	Total dollar amount of budget authority rescinded
1975	0	0	0	0	12	\$572,180,000	12	\$572,180,000
1984	85	\$3,172,190,000	45	61,793,779,548	81	\$2,317,816,284	129	\$3,987,844,280
1985	7	\$294,000,000	4	\$294,000,000	74	\$2,205,336,843	74	\$2,411,568,843
1987	128	7,826,673,890	26	2,087,588,000	131	22,579,953,034	157	24,596,499,924
1989	30	4,819,231,000	6	298,418,000	28	1,420,487,000	34 ^a	1,708,848,000
1990	11	354,258,000	0	0	21	2,504,888,000	21	2,504,888,000
1991	0	183,100,000	1	2,053,000	11	325,813,000	12	327,866,000
1997	23	5,335,800,000	0	0	81	3,889,863,000	81	3,889,863,000
1998	83	10,126,800,000	2	38,000,000	52	12,358,380,675	54	12,395,380,675
1985	215	1,938,087,000	4	163,210,000	7	5,408,410,000	11	5,571,620,000
Subtotal:	648	824,793,048,490	196	175,888,000	12	5,458,871,000	110	5,832,320,000
1990-1990				\$4,206,448,448	898	\$39,844,344,938	739	\$83,018,002,397 ^b
Subtotal:	436	\$38,816,189,000	211	\$18,70,072,888	111	\$1,210,231,347	822	\$29,843,294,713 ^c
Grand Total:	1,084	\$72,801,314,990	399	\$22,878,778,819	848	\$70,061,343,093	1,048	\$92,845,298,518 ^d

3 The Military Construction Appropriations Act of 1991 approved certain rescissions proposed by the President in 1990 41 days after the funds were released for obligation under the Impoundment Control Act. Presidential rescissions proposed H.R. 6 and H.R. 10 totaling about \$41 million were not approved.

4 The total amount of budget authority rescinded is understated. This table does not include rescissions which eliminate an indefinite amount of budget authority.

SUMMARY OF PROPOSED AND ENACTED RESCISONS FISCAL YEARS 1974 - 1993

(All legislative action through October 7, 1994)

Fiscal year	Rescissions proposed by President	Dollar amount proposed by President for rescission	Proposals accepted by Congress	Dollar amount of proposals enacted by Congress	Rescissions initiated by Congress	Dollar amount of rescissions initiated by Congress	Total rescissions enacted	Total dollar amount of budget authority rescinded
1984	9	836,400,000	5	53,375,000	7	2,139,618,000	10	2,344,064,000
1985	21	1,586,000,000	0	0	11	310,603,000	11	310,603,000
1986	22	7,807,400,000	5	4,365,488,000	5	48,432,000	10	4,413,818,000
1987	132	15,361,800,000	101 ¹	10,890,935,950	43	3,736,490,800	144	14,617,426,150
1988	59	1,818,100,000	34	777,896,646	23	2,238,208,100	87	4,015,802,548
1989	11	800,700,000	9	723,809,000	1	47,500,000	10	771,109,000
1990	12	1,290,100,000	5	519,815,000	4	87,184,000	8	589,818,000
1991	20	1,829,830,000	8	813,690,000	3	172,727,943	12	888,417,843
1992	50	3,592,000,000	7	148,331,000	0	0	7	148,331,000
1993	87	2,722,000,000	36	388,293,310	1	4,999,704	38	393,293,074
1994	2	485,935,000	0	0	3	1,400,412,000	3	1,400,412,000
Subtotal: 1974 - 1994	436	638,919,133,000	211	818,376,073,849	111	811,215,221,247	322	829,689,294,715 ²

1. Thirty-three rescissions proposed by President Carter and totaling over \$1.1 billion are not included in this table. These rescission proposals were converted to dollars by President Reagan in the Fifth Special Message to the Fiscal Year 1981 dated February 13, 1981.

2. The total estimate of budget authority rescinded is understated. This table does not include rescissions which eliminate an indefinite amount of budget authority.

ENCLOSURE II

**RESCISSIONS BY PRESIDENTIAL ADMINISTRATION
UNDER THE IMPOUNDMENT CONTROL ACT**

Fiscal Year	Rescissions proposed by President Clinton		Presidential proposals accepted by Congress			Rescissions Initiated by Congress During Clinton Administration	
	Number	Dollar Amount	Number Accepted	Dollar Amount	Percent Accepted	Number	Dollar Amount
1995	0	0	0	0	0	12	\$572,190,000
1994	65	\$3,172,180,000	45	\$1,293,478,548	69	81	\$2,374,416,284
1993	7	\$356,000,000	4	\$206,250,000	57	66	\$1,962,511,000
TOTAL	72	\$3,528,180,000	49	\$1,499,728,548	68	159	\$4,909,117,284

Fiscal Year	Rescissions proposed by President Bush		Presidential proposals accepted by Congress			Rescissions Initiated by Congress During Bush Administration	
	Number	Dollar Amount	Number Accepted	Dollar Amount	Percent Accepted	Number	Dollar Amount
1993	0	\$0	0	\$0	0	8	\$242,825,643
1992	128	7,879,473,690	26	2,067,546,000	20	131	22,526,953,054
1991	30	4,859,251,000	8	286,419,000	27	26	1,420,467,000
1990	11	554,258,000	0	---	0	71	2,304,986,000
1989	0	0	0	---	0	11	325,913,000
TOTAL	169	\$13,292,062,690	34	\$2,353,965,000	20	247	\$28,621,144,697

**RESCISSIONS BY PRESIDENTIAL ADMINISTRATION
UNDER THE IMPOUNDMENT CONTROL ACT**
(continued)

Fiscal Year	Rescissions proposed by President Reagan		Presidential proposals accepted by Congress			Rescissions Initiated by Congress During Reagan Administration	
	Number	Dollar Amount	Number Accepted	Dollar Amount	Percent Accepted	Number	Dollar Amount
1989	6	\$143,100,000	1	\$2,053,000	17	0	\$0
1986	0	0	0	0	0	61	3,886,663,000
1987	73	5,635,600,000	2	36,000,000	3	52	12,359,390,875
1988	83	10,126,900,000	4	143,210,000	5	7	5,409,410,000
1985	245	1,856,087,000	98	173,699,000	40	12	5,455,621,000
1984	9	636,400,000	3	55,375,000	33	7	2,186,689,000
1983	21	1,569,000,000	0	0	0	11	310,605,000
1982	32	7,907,400,000	5	4,365,486,000	16	5	48,432,000
1981	133	15,361,900,000	101	10,880,935,550	76	43	3,736,490,600
TOTAL	602	\$43,436,597,000	214	\$15,656,758,550	36	196	\$33,400,301,275

**RESCISSIONS BY PRESIDENTIAL ADMINISTRATION
UNDER THE IMPOUNDMENT CONTROL ACT**
(continued)

Fiscal Year	Rescissions proposed by President Carter		Presidential proposals accepted by Congress			Rescissions Initiated by Congress During the Carter Administration	
	Number	Dollar Amount	Number Accepted	Dollar Amount	Percent Accepted	Number	Dollar Amount
1981	33	\$1,142,364,000	0	\$0	0	0	\$0
1980	69	1,618,100,000	34	777,696,448	58	33	3,238,206,100
1979	11	908,700,000	9	723,609,000	62	1	47,500,000
1978	12	1,290,100,000	5	518,655,000	42	4	67,164,000
1977	7	791,552,000	2	96,080,000	29	3	172,722,943
TOTAL	89	\$4,808,452,000	50	\$2,118,050,448	56	41	\$3,525,593,043

Note: The 33 rescissions proposed in 1981 by President Carter were converted to delerrals by President Reagan in his Fifth Special Message of Fiscal Year 1981, dated February 13, 1981.

Fiscal Year	Rescissions proposed by President Ford		Presidential proposals accepted by Congress			Rescissions Initiated by Congress During Ford Administration	
	Number	Dollar Amount	Number Accepted	Dollar Amount	Percent Accepted	Number	Dollar Amount
1977	13	\$1,135,378,000	7	\$717,600,000	54	0	\$0
1976	50	3,582,000,000	7	148,331,000	14	0	0
1975	87	2,722,000,000	38	366,295,370	44	1	4,999,704
1974	2	495,635,000	0	0	0	3	1,400,412,000
TOTAL	152	\$7,935,013,000	52	\$1,252,228,370	34	4	\$1,405,411,704

CRS Issue Brief

The President and the Budget Process: Expanded Impoundment and Item Veto Proposals

Updated October 6, 1994

by
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The President and the Budget Process: Expanded Impoundment and Item Veto Proposals

SUMMARY

Conflicting budget priorities, along with concern over the size of the Federal deficit, have accentuated the institutional tensions between the executive and legislative branches inherent in the Federal budget process. President Clinton, like his two predecessors, wants an item veto, or possibly expanded impoundment authority, to provide him with greater control over Federal spending.

Congress exercises its "power of the purse" by enacting appropriations measures, but the President has broad authority as chief executive in the implementation stage of the budget process. It is at this stage that the monies provided by Congress are actually spent by the Federal Government. Impoundment, whereby the President withholds or delays the spending of appropriated funds, provides one important mechanism for budgetary control during the execution stage, but Congress retains oversight responsibilities at this stage as well.

The Impoundment Control Act of 1974 (Title X of the Congressional Budget and Impoundment Control Act, P.L. 93-344), established two categories of impoundments: deferrals, or temporary delays in funding availability; and rescissions, or permanent cancellation of budget authority. The 1974 law also stipulated different procedures for congressional review and control of the two types of impoundment. With a rescission, the funds must be made available for obligation unless both Houses of Congress take action to approve the President's rescission request within 45 days of "continuous session."

Consideration of impoundment reform has become increasingly joined with that of an item veto for the President. The Constitution provides that the President may sign a bill into law or veto the measure in its entirety. By contrast, constitutions in 43 States provide for an item veto, allowing Governors to eliminate individual provisions or reduce amounts in legislation presented for their signature. Depending on specific provisions, rescission may be viewed as approaching a functional equivalence with an item veto: the President identifies certain items in an appropriations law for possible elimination by sending an impoundment message to Congress.

Several measures to strengthen rescission authority or create an item veto for the President have been introduced in the 103rd Congress. Some seek to reverse the burden of action regarding rescissions, stipulating that the funds remain permanently canceled unless Congress acts to disapprove the request within a prescribed period (enhanced rescission). Others focus on procedural changes to expedite congressional review of rescission requests to facilitate, if not ensure, a vote thereon (expedited rescission). An example of this latter type, H.R. 1578, passed the House on Apr. 29, 1993, by vote of 258-157, and a somewhat stronger version, H.R. 4600, as amended, passed the House on July 14, 1994, by vote of 342-69. President Clinton supports expedited rescission, which he finds similar to veto authority exercised by the Governor of Arkansas, as an alternative to the item veto for the President.

MOST RECENT DEVELOPMENTS

On Oct. 5, 1994, the Senate Budget Committee held a hearing on legislative line-item veto proposals. Earlier in the year, on June 15, the Senate Judiciary's Subcommittee on the Constitution held a hearing on the line item veto and the President's constitutional authority.

Meanwhile, floor action has occurred in the House. On July 14, 1994, the House passed H.R. 4600, the Expedited Rescissions Act of 1994, as amended, by vote of 342-69. As originally reported by the Rules Committee on June 23, 1994, H.R. 4600 was identical to H.R. 1578, passed by the House on Apr. 29, 1993, by vote of 258-157. However, the crucial vote on H.R. 1578 came the previous day on the rule (H.Res. 149) governing floor debate on the bill, when it was necessary for Speaker Foley to persuade some Democrats to switch their votes, thereby assuring a 212-208 victory.

BACKGROUND AND ANALYSIS

The 1989 report of the National Economic Commission, among other commentaries, has suggested that the "balance of power on budget issues has swung too far from the Executive toward the Legislative branch." Debate about the appropriate relationship between the branches in the Federal budget process seems endemic, given the constitutional necessity of shared power in this sphere. Under the Constitution, Congress possesses the "power of the purse" ("No money shall be drawn from the Treasury but in consequence of appropriations made by law"), but the President enjoys broad authority as the chief executive who "shall take care that the laws be faithfully executed."

The Constitution was silent concerning the specifics of a budget system for the Federal Government. Informal procedures sufficed for many years. The Budget and Accounting Act of 1921 (P.L. 67-14) for the first time required the President to submit a consolidated budget recommendation to Congress. To assist in this task, the Act also created a new agency, the Bureau of the Budget, "to assemble, correlate, revise, reduce, or increase the estimates of the several departments or establishments." In 1970, the budget agency was reconstituted as the Office of Management and Budget.

Federal budget documents refer to three main stages in the budget process: (1) executive formulation and transmittal of the President's budget recommendations; (2) congressional action; and (3) budget execution and control. Budget execution, the primary focus in this analysis, involves the actual spending of funds as appropriations laws are implemented. Impoundment of funds by the President represents an important component in budget execution.

Brief History of Impoundment

Impoundment includes any executive action to withhold or delay the spending of appropriated funds. One useful distinction among impoundment actions, which received statutory recognition in the 1974 Impoundment Control Act, focuses on

duration, whether the President's intent is permanent cancellation of the funds in question (rescission) or merely a temporary delay in availability (deferral).

Another useful contrast distinguishes impoundment for routine administrative reasons from impoundment to achieve distinct policy purposes. Virtually all Presidents have impounded funds in a routine manner as an exercise of executive discretion to accomplish efficiency in management. The creation of budgetary reserves as a part of the apportionment process required by the Antideficiency Acts (31 U.S.C. 1511-1519) provided formal structure for such routine impoundments, which originated with an administrative regulation issued in 1921 by the Bureau of the Budget and then received a statutory base in 1950. Impoundments for policy reasons, whether short-term or permanent, have proved far more controversial.

In the 1950s and 1960s, disputes over the impoundment authority resulted from the refusal of successive Presidents to fund certain weapons systems to the full extent authorized by Congress. These confrontations between the President and Congress revolved around the constitutional role of Commander-in-Chief and tended to focus on relatively narrow issues of weapons procurement. President Johnson made broader use of his power to impound by ordering the deferral of billions of dollars of spending during the Vietnam war in an effort to restrain inflationary pressures in the economy. While some impoundments during these periods were motivated by policy concerns, they typically involved temporary spending delays, with the President acting in consultation with congressional leaders, so that a protracted confrontation between the branches was avoided.

Conflict over the use of impoundments greatly increased during the Nixon Administration and eventually involved the courts as well as Congress and the President. In the 92nd and 93rd Congresses (1971-1974), the confrontation intensified as the President sought to employ the tool of impoundment to reorder national priorities and alter programs previously approved by Congress. Following President Nixon's reelection in 1972, the Administration announced major new impoundment actions affecting a variety of domestic programs. For example, a moratorium was imposed on subsidized housing programs, community development activities were suspended, and disaster assistance was reduced. Several farm programs were likewise targeted for elimination. Perhaps the most controversial of the Nixon impoundments involved the Clean Water Act funds. Court challenges eventually reached the Supreme Court, which in early 1975 decided *Train v. City of New York* (420 U.S. 35 (1975)), on narrower grounds than the extent of the President's impoundment authority.

During these impoundment conflicts of the Nixon years, Congress responded not only with ad hoc efforts to restore individual programs, but also with gradually more restrictive appropriations language. Arguably, the most authoritative response was the enactment of the Impoundment Control Act (ICA), Title X of the Congressional Budget and Impoundment Control Act of 1974. The ICA became effective upon signing on July 12, 1974 (88 Stat. 332). As a result of a compromise in conference, the ICA differentiated deferrals, or temporary delays in funding availability, from rescissions, or permanent cancellations of designated budget authority. As discussed below, the Act stipulated different procedures for congressional review and control of the two types of impoundment. The 1974 law also required the President to inform Congress of all proposed rescissions and deferrals and to submit specified information regarding each. The ICA further required the Comptroller General to oversee executive compliance with

the law and to notify Congress if the President failed to report an impoundment or improperly classified an action.

Before 1974 the distinction between "rescissions" and "deferrals" did not appear central to the impoundment debate. While the accumulation of budgetary reserves under the Antideficiency Act provided an antecedent to deferrals, the earlier laws limited deferrals to routine administrative functions.

Procedures for Congressional Review of Rescissions

In the case of a rescission, the ICA provided that the funds must be made available for obligation unless both Houses of Congress take action to approve the rescission request within 45 days of "continuous session" (recesses of more than 3 days not counted). In practice, this usually means that funds proposed for rescission not approved by Congress must be made available for obligation after about 60 calendar days, although the period can extend to 75 days or longer. Congress may approve all or only a portion of the rescission request. Congress may also choose after the 45-day period to rescind funds previously requested for rescission by the President. It is also possible for Congress to rescind funds never proposed for rescission by the President, but such action is not subject to the ICA procedures.

The ICA establishes no procedures for congressional disapproval of a rescission request during the 45-day period. However, some Administrations have voluntarily followed a policy of releasing funds before the expiration of the review period, if either the House or the Senate authoritatively indicates that it does not intend to approve the rescission.

In the fall of 1987, as a component of legislation to raise the limit on the public debt (P.L. 100-119), Congress enacted several budget process reforms. Section 207 prohibited the practice, sometimes used by Presidents when Congress failed to act on a rescission proposal within the allotted period, of submitting a new rescission proposal covering identical or very similar matter. By using such resubmissions repeatedly, with accompanying delays of 45 days or more, the President might continue to tie up funds even though Congress, by its inaction, had already rejected virtually the same proposal. The prohibition against such seriatim rescission proposals (contained in the 1987 law) applies for the duration of the appropriation, so that it may remain in effect for two or more fiscal years.

Executive Branch Proposals

Various proposals put forth since 1974 for altering the impoundment process tend to reflect one of two perspectives. Some efforts seek to reduce potential for abuse of presidential discretion under the current framework by additionally confining the President's authority or by tightening congressional oversight procedures. The other viewpoint regards the President as unduly restricted under existing provisions and seeks to restore greater flexibility to the Executive with regard to impoundment actions, to facilitate opportunities for budgetary control. Proposals embodying this latter perspective may closely resemble those, discussed below, to grant the President item veto authority by statutory means.

During the Ford and Carter Administrations, the provisions of the ICA proved relatively noncontroversial. Dissatisfaction increased during the Reagan Administration. President Reagan, in his 1984 State of the Union message, specifically called for a constitutional amendment to grant item veto authority, which he considered to be a "powerful tool" while Governor of California. During his second term, President Reagan repeatedly called for item veto authority, as well as for a constitutional amendment mandating a balanced Federal budget. In his last two budget messages, President Reagan included enhanced rescission authority among his budget process reform proposals. President Bush also endorsed the idea of expanded rescission authority and an item veto for the President.

During the 1992 campaign, then-Governor Bill Clinton called for a presidential item veto. After the election, Mr. Clinton expressed interest in the version of expanded rescission authority for the President passed by the House at the end of the 102nd Congress (H.R. 2164; discussed below). He finds such a framework "functionally almost identical" to the procedures he used as Governor of Arkansas. The September 1993 Report of the National Performance Review (Gore Commission) included among its recommendations the enactment of expedited rescission procedures and suggested that negotiations with the leadership of the House and Senate be pursued.

Alternative of an Item Veto

The U.S. Constitution provides that the President may either sign a measure into law or veto it in its entirety. However, constitutions in 43 States provide for an item veto (usually confined to appropriation bills), allowing the Governor to eliminate discrete provisions in legislation presented for signature. Ten States allow the Governor to reduce amounts as well as eliminate items, and seven States have an "amendatory" veto, permitting the Governor to return legislation with specific suggestions for change.

Of interest with respect to the previous experience of President Clinton, the Arkansas State Constitution provides the more limited form of item veto, with the Governor allowed only to disapprove items in appropriation bills. Also, in Arkansas a simple majority of the legislature is sufficient to override a Governor's veto.

The first proposal to provide the President with an item veto was introduced in 1876. President Grant endorsed the mechanism, in response to the growing practice in Congress of attaching "riders," or provisions altering permanent law, to appropriations bills. Over the years many bills and resolutions (mainly proposed constitutional amendments) have been introduced, but action in Congress on item veto proposals, beyond an occasional hearing, has been limited. In 1938 the House approved an item veto amendment to the independent offices appropriations bill by voice vote, but the Senate rejected the amendment. Contemporary proposals for item veto are usually confined to bills containing spending authority, although not necessarily limited to items of appropriation.

In his State of the Union address in January of 1988, President Reagan alluded to various instances of "wasteful, unnecessary, or low priority" spending projects included in the full-year omnibus continuing resolution for FY1988. He further noted that he would have deleted such projects were the item veto available to the President.

Instead, he promised to submit a rescission request identifying the items and challenged Congress to reconsider the need for them. It was later decided that a formal rescission message might be viewed as a violation of the 1987 budget summit agreement, so on Mar. 10, 1988, the President and OMB settled on sending Congress the list of projects as part of an informal request (see H.Doc. 100-174).

In the 101st Congress, the Senate Judiciary Subcommittee on the Constitution held a hearing on proposed constitutional amendments permitting an item veto on Apr. 11, 1989, and reported two, without recommendation, on June 8. S.J.Res. 14 would have allowed the President to veto only selected items in an appropriations bill, while S.J.Res. 23 would have authorized him to disapprove or reduce any item of appropriation, excluding legislative branch items. On Apr. 26, 1990, the Judiciary Committee voted 8-6 to report both measures favorably (filed as S.Rept. 101-466 on Sept. 19, 1990).

In the 102nd Congress the House voted on language providing item veto authority for the President. On June 11, 1992, during debate on H.J.Res. 290, proposing a constitutional amendment requiring a balanced budget, the House rejected by vote of 170-258 an amendment by Representative Kyl. The Kyl proposal sought to allow the President to exercise item veto authority in signing any measure containing spending authority (broadly defined), limit total outlays for a fiscal year to 19% of the gross national product of that year, and require a three-fifths vote of the Congress to approve any additional funds.

Some believe that the President already possesses item veto authority as a part of his constitutional powers. A 1987 article in the *Wall Street Journal* advocated this position. While a minority interpretation, this view claims some notable supporters. The Senate Judiciary Committee's Subcommittee on the Constitution held a hearing on June 15, 1994, to receive testimony on the subject. Should a President attempt an item veto of legislation presented for his signature, as advocated by supporters of this position such as Senator Specter, litigation would doubtless follow, with eventual involvement by the Supreme Court.

There is also some disagreement among experts on whether a constitutional amendment is required or whether statutory means may suffice to give the President an item veto. One statutory alternative is provided in S. 92, which stipulates that each item of an appropriations be enrolled as a separate bill. The situation becomes further complicated as the veto authority and impoundment authority of the President become increasingly joined in consideration of reform proposals to expand the role of the President in the budget process.

Expanded Rescission and Statutory Item Veto Proposals

Congress has been reluctant to confer on the President directly any sort of item veto authority. This reluctance reflects at least in part a fear that a shift in spending power from the legislative to the executive branch might result. In this context, the action by the Senate Judiciary Committee in reporting out the two constitutional amendment proposals in April 1990 appeared noteworthy. Some, however, contend that the 1974 Impoundment Control Act itself brought about a power shift, unduly diminishing the President's authority to impound funds. From this viewpoint, some

modification of the framework for congressional review of rescissions by the President could prove more acceptable than an outright grant of item veto authority.

Several such measures were introduced in the 101st and 102nd Congresses. The Senate Budget and Governmental Affairs Committees held joint hearings on Oct. 18 and 26, 1989, on various budget reform measures. During markup of budget process reform legislation on July 18 and 25, 1990, the Senate Budget Committee considered and rejected two amendments offered by Senator Armstrong providing enhanced rescission authority (containing S. 1553 language) by vote of 10-12, but voted to report (13-6) an original bill (S. 3181) to allow separate enrollment of items in appropriations measures (S. Rept. 101-518). On July 24, 1991, the Senate Committee on Rules and Administration held a hearing on S. 165, providing for separate enrollment of items in appropriations measures. A previous version of the bill (S. 43) was reported unfavorably by the Committee on Rules and Administration in 1985, but then S. 3181 was reported favorably by the Senate Budget Committee in 1990. In the House, the Rules Subcommittee on the Legislative Process held hearings on expanded rescission and item veto measures on Sept. 18 and 25, 1992.

Over two dozen proposals for strengthened rescission power or a statutorily derived item veto have been introduced in the 103rd Congress. On Mar. 10, 1993, the Subcommittee on Legislation and National Security of the House Government Operations Committee held a hearing on various pending bills, with additional hearings on budget process reform held on June 29, 1994. In the Senate, the Budget Committee held a hearing on various legislative line item veto proposals on Oct. 5, 1994.

Conceptually, there could be notable differences between measures seeking to provide statutory item veto authority and those seeking to expand the rescission authority of the President. In particular, an item veto statute might permit vetoing of provisions of nonbudgetary items in a measure presented to the President. Historically, interest in an item veto for the President emerged from concern over legislative "riders" in appropriation bills, not the increasing number of accounts funded in a single measure. In recent practice, however, virtually all statutory item veto bills have focused exclusively on appropriation measures, and many expanded rescission measures also limit their applicability to appropriation laws and to a short period of time around their signing by the President.

In examining impoundment reform legislation, the distinction is often drawn between "expedited" and "enhanced" rescission proposals. (Statutory item veto proposals resemble more closely the "enhanced" approach.) While there are some analytical problems with this distinction, it provides a useful starting point. Individual measures may incorporate both enhanced and expedited features and may combine either or both with elements similar to item veto power.

Generally, proposals for expedited rescission focus on procedural changes in Congress, with the intent to facilitate if not ensure a vote on those rescission requests from the President submitted shortly after the signing of the appropriation law to which they relate. For example, such measures usually contain a detailed schedule to ensure immediate introduction of a measure to approve the rescission, prompt report by committee or automatic discharge, special limits on floor amendments and debate, and so on. Expedited rescission legislation is designed to supplement rather than supplant the existing framework for rescissions. Under expedited rescission,

congressional approval would still be necessary to cancel the funding. However, by expediting an up-or-down vote on the President's message, it likely would become more difficult to ignore proposed rescissions and hence to reject them by inaction. In the 103rd Congress, H.R. 354, H.R. 565, H.R. 1013, and S. 437 reflect this approach.

On the other hand, enhanced rescission proposals typically seek to reverse the "burden of action" regarding rescissions and thereby create a presumption favoring the President. Such proposals usually stipulate that budget authority identified in a rescission message from the President is to be permanently canceled unless Congress acts to disapprove the request within a prescribed period. An example of this type of bill is H.R. 666.

Some bills are "hybrids," reflecting a combination of item veto and rescission language and sometimes features of both expedited and enhanced approaches to rescission reform as well. One such bill, the Legislative Line Item Veto Act, was originally introduced in the 101st Congress as S. 1553/H.R. 3271. This bill was reintroduced in the 102nd (with endorsement of President Bush) and has been reintroduced in the 103rd as S. 9, along with House companion bills.

The substance of expanded rescission or statutory item veto provisions have been offered on several occasions as amendments during floor debate on other measures. Following up on four similar efforts in the 101st and 102nd Congresses, on Mar. 10, 1993, Senator McCain offered an amendment containing the provisions of S. 9 during floor debate on the National Voter Registration Act. Following considerable debate on the amendment, the motion to waive Section 306 of the Budget Act failed by vote of 45-52. The previous year, in the summer of 1992, attempts to offer a floor amendment to grant enhanced rescission/item veto authority occurred four times during House debate on appropriation measures. (For a listing of such floor votes, see CRS Memorandum dated Oct. 4, 1994: "House and Senate Votes on Proposals to Give the President Item Veto or Expanded Rescission Authority.")

By the fall of 1992, H.R. 2164, characterized by its supporters as a compromise measure agreeable to most sponsors of the other measures as well, had over 220 cosponsors. An apparent agreement was reached between supporters of the measure and the House leadership to bring up H.R. 2164 under suspension of the rules for a floor vote before adjournment of the 102nd Congress. This occurred on Oct. 2-3, 1992, and H.R. 2164 passed by vote of 312-97.

H.R. 2164 would have established procedures for expedited congressional consideration of certain rescission proposals from the President submitted not later than 3 days after signing an appropriations act. Under the measure, the proposed rescission could not reduce a program below the budget level of the previous year or by more than 25% for new programs. Funds would have become available after a vote in Congress to reject the proposed rescission.

In the 103rd Congress, on Apr. 2, 1993, the House briefly considered a revised version of this bill, H.R. 1578, as reported by the Rules Committee with an amendment in the nature of a substitute (H.Rept. 103-52), but the rule providing for consideration of the bill (H.Res. 149) was unexpectedly withdrawn without a vote. In contrast to H.R. 2164, H.R. 1578, as reported by Rules, would allow the President to propose rescission of up to 100% of any program and also contains a section pertaining to expedited

judicial review. But most significantly, H.R. 1578, as amended, details expedited procedure for a vote on an Appropriations Committee substitute as an alternative to the President's rescission package.

House leaders promised to bring H.R. 1578 to the floor again after the spring recess, and action on the identical rule and bill was scheduled to resume on April 21. But for the second time, they pulled the bill abruptly from the floor, apparently because of continuing concern that a vote on the rule would not pass. Major opponents of the measure included many House Republicans (who wanted stronger rescission authority for the President) and most Members of the Black Caucus (who thought the bill gave away too much authority to the President). On April 28, the by now controversial rule (H.Res. 149) again came to the floor, was debated, and voted upon. However, according to news accounts, when the official voting period had elapsed, the rule was losing by a small margin. Then Speaker of the House Foley reportedly persuaded some Democrats to change their votes, and the rule narrowly passed, by vote of 212-208.

On Apr. 29, 1993, the House continued consideration of H.R. 1578, agreeing to the Rules Committee amendment in the nature of a substitute (as provided for in H.Res. 149) by vote of 248-163 (having earlier agreed to the substitute in the Committee of the Whole by vote of 247-168). The House rejected the Clinger motion to recommit the bill to the Rules Committee with instructions (182-233), but agreed to the Michel modifying amendment to allow the President to repeal targeted tax benefits (257-157). The Castle amendment in the nature of a substitute, providing enhanced rescission authority (see H.R. 1642, below), which the Michel amendment modified, was ultimately rejected (198-219). Finally, the House passed H.R. 1578 by vote of 258-157.

Meanwhile, on Mar. 25, 1993, the Senate adopted two sense of the Senate amendments relating to rescission reform as a part of the Budget Resolution for FY1994. The conference version retained a single sense of the Senate provision in this regard, stating the "President should be granted line-item veto authority over items of appropriations and tax expenditures" to expire at the end of the 103rd Congress. H.Con.Res. 218, the Budget Resolution for FY1995, as adopted in May of 1994, also contained sense-of-the-House provisions regarding enactment of certain budget process legislation, including expedited rescission authority for the President.

On June 23, 1994, the House Rules Committee reported H.R. 4600, the Expedited Rescissions Act of 1994, which was identical to H.R. 1578 as passed by the House on Apr. 29, 1993. The report accompanying H.R. 4600 explained that by considering an identical measure in the second session, the "House hopes to impress upon the Senate the importance of its own support for and action on these budget process reforms."

On July 14, 1994, the House passed H.R. 4600, with an amendment in the nature of a substitute, by vote of 342-69. This Stenholm substitute amendment, which tended to expand upon the existing provisions (see H.R. 4600 in LEGISLATION, below), was agreed to by vote of 298-121. The Solomon substitute amendment, which sought to give the President enhanced rescission authority akin to an item veto, was rejected by vote of 205-218.

As noted already, President Clinton is on record in support of the House-passed version of expedited rescission. In the past, Senate Appropriations Committee Chairman Robert Byrd has been critical of most any expanded rescission proposal as

well as ardently opposing a line item veto for the President. Senator Byrd contends that such proposals generally diminish the constitutional role given to Congress with respect to the power of the purse by transferring additional authority to the President.

In the Senate, as mentioned above, the Budget Committee held a hearing on legislative line item veto proposals on Oct. 5, 1994. Several Senators sponsoring expedited or enhanced rescission or separate enrollment measures testified in the morning, with Senator Byrd providing a response in the afternoon. No further action on these measures appears likely in the Senate in the 103rd Congress.

Comparing Rescissions and Item Vetoes

Consideration of impoundment reform has become increasingly joined with the subject of an item veto. In some respects, rescission action may be viewed as a functional equivalent to an item veto: the President identifies certain items in an appropriations law for possible deletion via an impoundment message to Congress. However, a major difference relates to the burden of action associated with the respective mechanisms. Under the current framework for oversight of impoundment, funds proposed for rescission must be released for obligation after 45 days unless Congress acts to approve, by simple majority in each House. With an item veto, the burden of action would fall on Congress to restore the funds at issue, with a two-thirds majority necessary to override a presidential veto. Few dispute that this change would constitute a major shift of power to the President. Some enhanced rescission proposals would have similar impact, because a two-thirds majority would be needed to override the anticipated veto by the President of any statutory rescission disapproval measure.

Two other differences are often cited between item veto and rescission actions. The first is the issue of timing: impoundment actions can occur anytime after enactment of the law, weeks or even months later, while an item veto is exercised within a short period following congressional passage. However, this timing distinction becomes blurred in many of the rescission reform proposals, which provide special rescission authority for the President only during a limited period after he signs an appropriations act. The second frequently cited difference is that impoundment authority, being a more restricted mechanism, can be modified by statute, whereas most authorities hold that the constitutionally based veto authority of the President could be revised to provide for item vetoes only by means of a constitutional amendment. This distinction also has become less clear-cut, with questions being raised about the constitutionality of some rescission reform proposals on the one hand and arguments being advanced as to the possibility of conferring an item veto by statute on the other (e.g., through "separate enrollment" mechanisms).

Some additional generic contrasts appear between bills providing for expanded rescission authority and proposals for constitutional amendments for an item veto. For example, in terms of precision of mechanism, a constitutional amendment usually is framed in general language, while a statute often provides more operational detail. The issue of permanency of the device also provides contrasts; a statute can be modified or repealed by another statute in contrast to a constitutional amendment, which can only be altered by another amendment.

Another difference between rescissions and item vetoes relates to coverage and definitions. There is no universally accepted definition of an "item." Many appropriations occur as lump-sum amounts in the public law, with the details of itemization contained in report language; an item veto could not delete such items in reports. In contrast, enhanced rescission authority can apply to any appropriated amount identifiable by the President and can thus avoid the problem of how "item" is defined. In terms of scope, some item veto proposals can apply to so-called legislative riders in appropriations laws; such nonmonetary provisions (if coming under the definition of an "item") could be subject to the veto. However, enhanced rescission authority can only reach appropriated funds; nonmonetary restrictions in appropriations laws could not be modified or deleted.

The two approaches also differ in flexibility. Most item veto proposals call for acceptance or rejection of the item, although some would allow "editing," or reducing an amount without eliminating it. The rescission device has greater flexibility for the President, in modifying amounts as well as eliminating them. Finally, the two approaches differ in their familiarity to the public, as derived from experience in the States. Forty-three States have some form of item veto; it is a widely accepted feature of the budget process and a familiar device in policymaking. However, impoundment actions by Governors are not common. Consequently, knowledge in the American public regarding rescissions as an alternative mechanism for exerting executive control in the budget process tends to be quite limited.

LEGISLATION

H.R. 24 (Solomon)/H.R. 1642 (Castle)

Similar to H.R. 159 et al., except special "line-item veto rescission authority" for the President is in effect only for fiscal years 1994 and 1995. H.R. 24 introduced on Jan. 5, 1993, and H.R. 1642 introduced on Apr. 1, 1993; both referred jointly to Committees on Government Operations and on Rules.

H.R. 159 (Duncan)/H.R. 223 (Kasich)

Legislative Line Item Veto Act of 1993. Both bills introduced Jan. 5, 1993; referred jointly to Committees on Government Operations and on Rules. (See S. 9.)

H.R. 222 (T. Johnson)

Line-Item Rescission Act of 1993. Provides that the President may submit special rescission messages on the same day as signing appropriation bill, with expedited procedures for congressional action, but rescission becomes permanent only if approved. Introduced Jan. 5, 1993; referred to Committee on Rules.

H.R. 354 (Slattery)/S. 437 (Krueger)

Expedited Consideration of Proposed Rescissions Act. Very similar bills. Establish procedures for expedited consideration in Congress of certain rescission proposals from the President submitted not later than 3 days after signing an appropriations act. Proposed rescission may not reduce a program below budget level of previous year or by more than 25% for new programs. Funds become available after a vote in Congress to reject the proposed rescission. H.R. 354 introduced Jan. 5, 1993; referred jointly to Committees on Government Operations and on Rules. S. 437 introduced Feb. 25, 1993; referred jointly to Committees on Budget and Governmental Affairs.

H.R. 493 (Michel)

Enhanced Rescission/Receipts Act of 1993. Grants the President the power to reduce budget authority through enhanced rescission (termed "legislative, line item veto") authority by amending the Impoundment Control Act to allow transmission of special rescission message within 20 days of enactment of appropriations measures or accompanying January budget submission. Budget authority so rescinded remains canceled unless Congress disapproves within 20 days. Also gives the President the power to veto targeted tax provisions within broader revenue bills; such provisions remain canceled unless Congress disapproves within 20 days. Introduced Jan. 20, 1993; referred jointly to Committees on Government Operations and on Rules.

H.R. 565 (Kolbe)

Provides for several reforms in the budget process. Title III relates to expedited rescission authority; similar to H.R. 354. Introduced Jan. 25, 1993; referred jointly to Committees on Government Operations and on Rules.

H.R. 637 (Sundquist)

Authorizes the President to veto items of appropriation. Provides for override by simple majority of both houses. Introduced Jan. 26, 1993; referred to Committee on Judiciary.

H.R. 666 (Dornan)

Provides that rescission proposed by the President becomes permanent unless Congress specifically disapproves it. Introduced Jan. 27, 1993; referred jointly to Committees on Government Operations and on Rules.

H.R. 1013 (Stenholm)

Expedited Consideration of Proposed Rescissions Act of 1993. Similar to H.R. 354. Also allows motion to strike any proposed rescission in bill containing President's package if supported by 49 other Members in House or 14 other Senators. Introduced Feb. 18, 1993; referred jointly to Committees on Government Operations and Rules.

H.R. 1075 (Walker)

Allows an item veto by the President in appropriation acts for fiscal years 1994-1998, to reduce spending to levels necessary to achieve a balanced budget by FY1998 and to establish select committees on congressional budget and appropriation process reform in the House and Senate. Introduced Feb. 23, 1993; referred jointly to Committees on Government Operations and Rules.

H.R. 1138 (Orton)

Comprehensive Budget Process Reform Act. Title V relates to expedited rescission authority; similar to H.R. 1013. Introduced on Feb. 24, 1993; referred to Committees on Government Operations; Rules; and Public Works and Transportation.

H.R. 1253 (Bunning)

Legislative Line Item Veto Act of 1993. Similar to S. 9. Allows for waiver of rule prohibiting amendments to a rescission disapproval bill by a three-fifths vote. Introduced Mar. 9, 1993; referred to Committees on Government Operations and Rules.

H.R. 1578 (Spratt)

Expedited Rescissions Act of 1993. Similar to H.R. 1013, but does not allow any motions to strike and contains provisions for expedited judicial review of law. As amended by the rule providing for its consideration (H.Rept. 102-52, to accompany H.Res. 149), allows for expedited consideration of an Appropriations Committee substitute if the President's package is rejected. Introduced on Apr. 1, 1993; referred jointly to the Committees on Government Operations and Rules. Passed House on Apr. 29, 1993 (258-157).

H.R. 1597 (Minge)

Line Item Veto Act. Establishes procedures for expedited consideration in Congress of certain rescission proposals or of tax expenditure provisions proposed for repeal by the President as submitted within a week after signing the law containing them. Introduced on Apr. 1, 1993; referred to Committees on Government Operations and Rules.

H.R. 2929 (Cox)/S. 1955 (Lott)

Budget Process Reform Act. Title III(B) would give the President limited line item reduction authority. H.R. 2929 introduced Aug. 6, 1993; referred jointly to Committees on Government Operations; Rules; Appropriations; and Ways and Means. S. 1955 introduced Mar. 22, 1994; referred jointly to Committees on Budget; and Governmental Affairs.

H.R. 4434 (Stenholm)/S. 2458 (Craig)

Common Cents Budget Reform Act of 1994. Title III provides for expedited consideration of certain proposed rescissions submitted at any time. Also provides for expedited procedures for proposed repeal of targeted tax benefit. H.R. 4434 introduced May 17, 1994; referred jointly to Committees on Government Operations and on Rules. S. 2458 introduced Sept. 22, 1994; referred jointly to Committees on the Budget and on Governmental Affairs.

H.R. 4600 (Spratt)

Expedited Rescissions Act of 1994. Introduced June 17, 1994; referred jointly to Committees on Government Operations; and Rules. As introduced and reported by Rules Committee (H.Rept. 103-557, Part 1) on June 23, 1994, identical to H.R. 1578. Passed House (342-69) on July 14, 1994, after the Stenholm amendment in the nature of a substitute was agreed to (298-121). The Stenholm substitute amendment extends expedited procedures to repeal of "targeted tax benefits" in revenue bills if requested by the President; provides that 50 House Members can request a vote on a motion to strike an individual rescission from the President's proposed rescission package; provides that the special rescission procedures are permanent and applicable at any time during the year; does not apply expedited procedures to alternative rescission packages proposed by the Appropriations Committees; and specifies that the President has the option of earmarking savings from proposed rescissions for deficit reduction.

H.J.Res. 4 (Allard)/H.J.Res. 7 (Archer)/H.J.Res. 25 (Emerson)

Constitutional Amendments. Allow the President to exercise an item veto in appropriations acts. All introduced Jan. 5, 1993; referred to Committee on Judiciary.

H.J.Res. 30 (Ewing)/H.J.Res. 35 (Kolbe)/H.J.Res. 63 (Poshard)/H.J.Res. 76 (Clement)

Constitutional Amendments. Allow the President to disapprove or reduce an item of appropriations. Introduced, respectively, Jan. 5, 6, and 27, 1993; referred to Committee on Judiciary.

H.J.Res. 46 (Solomon)

Constitutional Amendment. Allows an item veto in appropriations acts; excepts from item veto appropriations for national defense. Introduced Jan. 5, 1993; referred to Committee on Judiciary.

H.J.Res. 50 (Stump)

Constitutional Amendment. Allows the President to veto any item of appropriation or any provision in any act or joint resolution containing an item of appropriation. Introduced Jan. 5, 1993; referred to Committee on Judiciary.

H.J.Res. 54 (Zimmer)

Constitutional Amendment. Provides for a balanced budget for the United States Government and for greater accountability in the enactment of tax legislation and allows for the President to veto items in appropriations bills. Introduced Jan. 5, 1993; referred to Committee on Judiciary.

H.J.Res. 91 (G. Franks)

Constitutional Amendment. Allows an item veto of appropriations, except any for the judicial branch. Introduced Feb. 3, 1993; referred to Committee on Judiciary.

H.J.Res. 115 (Grams)

Constitutional Amendment. Provides for a balanced budget and line item veto for the President in measures containing spending authority. Introduced Feb. 18, 1993; referred to Committee on Judiciary.

H.J. Res. 183 (Hancock)

Similar to S.J.Res. 15. Introduced on Apr. 22, 1993; referred to Committee on Judiciary.

S. 9 (McCain)

Legislative Line Item Veto Act of 1993. Grants the President the power to reduce budget authority through enhanced rescission authority by amending the Impoundment Control Act to allow transmission of special rescission message within 20 days of enactment of appropriations measures or accompanying January budget submission. Budget authority so rescinded remains canceled unless Congress disapproves within 20 days. Introduced Jan. 21, 1993; referred to Committees on Budget and Governmental Affairs.

S. 92 (Hollings)

Legislative Line Item Veto Separate Enrollment Authority Act. Amends the Impoundment Control Act of 1974 to provide that each item of a bill or joint resolution containing appropriations be enrolled as a separate measure for presentation to the President. Introduced Jan. 21, 1993; referred to Committee on Rules and Administration.

S. 102 (Mack)/H.R. 1636 (Stearns)

Provides for legislative line item veto authority, capital gains tax reduction, enterprise zones, and raising the social security earnings limit workfare. Sec. 101 ("Enhancement of spending control by the President"), includes provisions described in S. 9 above. S. 102 introduced Jan. 21, 1993; referred to Committee on Finance. H.R. 1636 introduced on Apr. 1, 1993; referred to Committees on Government Operations; Rules; and Ways and Means.

S. 224 (Exon)

Enhanced Rescission Act of 1993. Similar to H.R. 354, except no limitation on the amounts proposed for rescission. Introduced Jan. 27, 1993; referred to Committees on Budget and on Governmental Affairs.

S. 526 (Bradley)

Creates a legislative line item veto by requiring separate enrollment of items in appropriations bills and tax expenditure provisions in revenue bills. Introduced Mar. 5, 1993; referred to Committee on Rules and Administration.

S. 690 (Craig)

Modified Line Item Veto/Expedited Rescissions Act. Similar to H.R. 1013. Introduced on Apr. 1, 1993; referred to the Committees on Budget and on Governmental Affairs.

S. 740 (Cohen)

Expedited Consideration of Proposed Rescissions Act. Similar to H.R. 1013, but without motion to strike language. Also allows for expedited consideration of tax expenditure provisions, as proposed for repeal by the President in a manner akin to that for rescissions. Introduced on Apr. 2, 1993; referred to Committees on Budget and on Governmental Affairs.

S.Res. 195 (Specter)

Expresses the sense of the Senate that the President currently has authority under the Constitution to veto individual items, without any additional authorization. Introduced Mar. 24, 1994; referred to Committee on Judiciary.

S.Res. 245 (Specter)

Expresses the sense of the Senate that the President should exercise line-item veto authority now in order to obtain a judicial determination of its constitutionality. Introduced July 26, 1994; referred to Committee on Judiciary.

S.J.Res. 4 (Specter)

Constitutional Amendment. Allows the President to disapprove or reduce any item of appropriation; simple majority of each house of Congress could override such an item veto or reduction. Introduced Jan. 21, 1993; referred to Committee on Judiciary.

S.J.Res. 15 (Thurmond)

Constitutional Amendment. Allows the President to veto items of appropriations. Introduced Jan. 21, 1993; referred to Committee on Judiciary.

S.J.Res. 63 (Simon)

Constitutional Amendment. Allows the President to disapprove or reduce any item of appropriations. Introduced Mar. 11, 1993; referred to Committee on Judiciary.

CONGRESSIONAL HEARINGS, REPORTS, AND DOCUMENTS

U.S. Congress. House. Committee on the Budget. *The Line Item Veto: An Appraisal*. Washington, U.S. Govt. Print. Off., 1984. 16 p.

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U.S. Congress. House. Committee on Rules. *Amending the Congressional Budget and Impoundment Control Act of 1974 to provide for the Expedited Consideration of Certain Proposed Rescissions of Budget Authority; Report to Accompany H.R. 4600*. 103rd Congress, 2nd session. House. Report No. 103-557, Part 1. Washington, U.S. Govt. Print. Off., 1994. 22 p.

---- *Item Veto: State Experience and Its Application to the Federal Situation*. Washington, U.S. Govt. Print. Off., 1986. 291 p.

At head of title: 99th Congress, 2nd session. Committee print.

---- *Legislative Line-Item Veto Proposals*. Hearings before the Subcommittee on the Legislative Process, 102nd Congress, 2nd session. Washington, U.S. Govt. Print. Off., 1993. 385 p.

U.S. Congress. Senate. Committee on Budget. *Legislative Line Item Veto Separate Enrollment Authority Act; Report to Accompany S. 3181*. Washington, U.S. Govt. Print. Off., 1990. 19 p. (101st Congress, 2nd session. Senate. Report No. 101-518.)

U.S. Congress. Senate. Committee on the Judiciary. Subcommittee on the Constitution. *Line-Item Veto*. Hearing, 101st Congress, 1st session, on S.J.Res. 14, S.J.Res. 23, and S.J.Res. 31. Apr. 11, 1989. Washington, U.S. Govt. Print. Off., 1991. 305 p.

----- *Line-Item Veto; Report to Accompany S.J.Res. 14 and S.J.Res. 23*. Washington, U.S. Govt. Print. Off., 1990. 20 p. (101st Congress, 2nd session. Senate. Report No. 101-466.)



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MEMORANDUM

October 4, 1994

SUBJECT : House and Senate Votes on Proposals to Give the President Item Veto or Expanded Rescission Authority

FROM : Virginia A. McMurtry *VAM*
Head, Legislative and Budget Processes Section
Government Division

This memorandum lists House and Senate floor votes on selected measures to enhance the President's power to rescind appropriated funds or to grant authority to veto items in appropriations bills (see Table 1 below). With but one exception of historic interest, these votes occurred in the last six Congresses (98th-103rd Congresses). The period since enactment of the Congressional Budget and Impoundment Control Act of 1974 (P.L. 93-344, 99 Stat. 297 (as amended)) is covered by these votes.

We have identified over thirty votes using CRS files and Library of Congress databases. Although the listing is characterized as "selected," since the method of its compilation could have missed possible instances, it should be relatively comprehensive. Some of these votes are on procedural issues, as indicated in the table, rather than on the proposal directly.

Five of the votes included are on or relate to measures identified as item veto proposals. Nineteen deal with enhanced or expedited rescission proposals. Such proposals typically seek to amend the Impoundment Control Act and expand the President's rescission authority, whether supporters refer to them as "Line Item Veto Rescission" measures or by some other term. Also counted here are two votes in the 103rd Congress on an amendment to the Budget Resolution for FY 1994, containing sense-of-the-Senate provisions in support of expedited or enhanced rescission.

Under expedited rescission, congressional approval would still be necessary to cancel the funding, but procedural changes would facilitate an up-or-down vote on the proposed rescission. One such measure, H.R. 1578, which the House approved in the First Session of the 103rd Congress, provided that a vote to reject the proposed rescission must occur before the funds could be made available again. In contrast, enhanced rescission proposals usually stipulate that budget authority identified in the rescission message from the President is to be

permanently canceled unless Congress acts to disapprove the request within a prescribed period, thereby reversing the "burden of action" required for rescissions in the current framework.

The remaining eight votes in the table had to do with separate enrollment procedures. Of those eight, the Mattingly bills in the 98th and 99th Congresses appear because their sponsors characterized their provisions as conferring item veto authority. The bills would have required that each item of an appropriation measure—i.e., "any numbered section or unnumbered paragraph"—be enrolled as a separate bill. Other separate enrollment measures, such as the Evans amendments in the 100th Congress, would have broken up omnibus continuing resolutions into components akin to regular appropriations bills. While such proposals may not, strictly speaking, constitute item vetoes, they seem of some relevance and interest. In the 103rd Congress, the Bradley amendment to the Budget Resolution for fiscal 1994 made explicit the connection between the item veto and separate enrollment. The amendment provided sense-of-the-Senate language that "the President should be granted line-item veto authority over items of appropriations and tax expenditures," to be accomplished by separate enrollment of each item of appropriation or tax expenditure.¹

Instances of floor votes on item veto, enhanced or expedited rescission, and separate enrollment measures have become more frequent in recent years. Over half of all such votes occurred in the last two Congresses, with the 103rd holding the current record of ten such votes.

Floor Votes in the 101st Congress

There were two instances in the 101st Congress when the provisions of S. 1553, the Legislative Line Item Veto Act of 1989, were offered as an amendment during floor debate in the Senate. After several unsuccessful attempts in the fall of 1989, Senator Dan Coats (R-IN) sought to incorporate the provisions of S. 1553 into an amendment offered during debate on November 9, 1989, on the conference report for the Department of Transportation Appropriations Act for FY 1990.² However, the Senate rejected (51-40) a motion to waive section 306 of the Congressional Budget Act of 1974 (which prohibits consideration of budget process legislation not reported by the Budget Committee) for the purpose, and the point of order raised against the amendment was sustained. A second attempt to offer provisions of S. 1553 as an amendment, led by Senator John McCain (R-AZ) on June 6, 1990, failed (43-50) on the same procedural grounds.³

¹ Senate debate on S. Con. Res. 18. *Congressional Record*, Daily Edition, v. 139, March 25, 1993. p. S3686.

² *Congressional Record*, Daily Editor, v. 135, Oct. 9, 1989. p. S15336-S15358.

³ Senate debate on S. 341, concerning air travel rights for blind individuals. *Congressional Record*, Daily Edition, v. 136, June 6, 1990. p. S7457-S7478.

House and Senate Votes in the 102nd Congress

There were floor votes on nine propositions widely viewed as reflecting support, at least indirectly, for item veto, enhanced or expedited rescission, or separate enrollment approaches in the 102nd Congress. In all but one of these cases, the substance of the expanded rescission, item veto, or separate enrollment provision was offered as an amendment during floor debate on another measure.

On February 26, 1992, Senator McCain offered an amendment containing the provisions of S. 196 (the Legislative Line Item Veto Act of 1991) during debate on the National Cooperative Research Act. Extended debate ensued, during which the Chairman of the Senate Appropriations Committee, Senator Robert Byrd (D-WV), spoke at length in opposition to the proposed amendment. The following day the Senate rejected (44-54) a motion to waive Section 306 of the Budget Act. Subsequently the point of order raised under Section 306 against the amendment was sustained.⁴

On June 11, 1992, during debate on H.J.Res. 290, proposing a balanced budget constitutional amendment, the House voted on an amendment containing item veto authority for the President. Representative Jon Kyl (R-AZ) offered the amendment (to the proposed constitutional amendment) to allow the President to exercise item veto authority when signing any measure containing spending authority (broadly defined), to limit total outlays for a fiscal year to 19 percent of the gross national product of that year, and to require a three-fifths vote of the Congress to approve any additional funds. The House rejected the Kyl amendment by vote of 170-258.⁵

Three times in July 1992 Representative Gerald Solomon (R-NY) and others attempted to have an amendment to provide "Legislative Line Item Veto Rescission Authority" made in order during debate in the House on a certain appropriation measure. Each attempt occurred as an effort to defeat the previous question on the special rule, for considering the measure, which did not make in order consideration of the Solomon amendment.⁶ As indicated in Table 1, the closest vote occurred on July 28, 1992, when the previous question was ordered by a margin of less than ten votes (207-199). Although supporters of the Solomon amendment sought to characterize the procedural vote as a measure of sentiment on the item veto, the floor debate indicates that some voted against moving the previous question on the rule for other reasons. Likewise, some Members who favor enhanced rescission might have voted for the previous question for reasons unrelated to their position on the item veto. In brief, when evaluating the significance of these votes, one needs to keep in

⁴ *Congressional Record*, Daily Edition, v. 138, Feb. 27, 1992. p. S2457-S2477.

⁵ *Congressional Record*, Daily Edition, v. 138, June 11, 1992. p. H4595-H4605.

⁶ See: *Congressional Record*, Daily Edition, v. 138, July 22, 1992, p. H6356-H6364; July 28, 1992, p. H6773-H6783; and July 30, 1992, p. H6988-H6999.

mind that they are imprecise measures of support for or opposition to enhanced rescission or item veto measures as such.

On July 21, 1992, during debate in the House on H.R. 2637 (to withdraw lands for the Waste Isolation Pilot Project), Representative Robert Walker (R-PA) offered an amendment, which he characterized as an item veto effort (but which is listed on the chart as a separate enrollment measure). The Walker amendment sought to provide that the funds authorized by the bill subsequently were to be appropriated only in an act or joint resolution containing no other appropriation to carry out any other law. The House rejected the amendment by vote of 144-248.⁷

In the Senate, Senator McCain and Senator Coats again tried to offer the provisions of S. 196 as an amendment on September 17, 1992, during floor debate on the Labor/HHS/Education Appropriations bill for 1993. The needed motion to waive section 306 of the Budget Act failed by vote of 40-56.⁸

On September 30, 1992, there was another effort in the House to offer the enhanced rescission provisions as a floor amendment to an appropriations measure, this time to H.J. Res. 553, the short-term continuing resolution providing a five-day funding extension. Representative Solomon urged defeat of the previous question on H.Res. 580 (the accompanying rule). However the majority leadership apparently urged that those wishing to signify support for the amendment effort oppose the rule itself rather than attempt to defeat the previous question. Thus the vote on the rule was agreed to by less than ten votes (213-204), while the previous question was agreed to by vote of 231-186.⁹ Shortly before the votes on the previous question and the rule occurred, Representative Butler Derrick (D-SC), Chairman of the Rules Subcommittee on the Legislative Process which had held two days of hearings on expanded rescission and item veto measures spoke, concluding: "I think that there is a possibility that we might get a vote of some sort on this line-item veto proposal before we get out of here, although I cannot say that definitely. There are discussions going on about that."¹⁰

The promised House debate and vote on an expanded rescission proposal before adjournment of the 102nd Congress occurred in early October 1992. H.R. 2164, the Expedited Consideration of Proposed Rescissions Act (which had over

⁷ *Congressional Record*, Daily Edition, v. 138, July 21, 1992. p. H6326-H6327.

⁸ *Congressional Record*, Daily Edition, v. 138, Sept. 17, 1992. p. S13684-S13697.

⁹ *Congressional Record*, Daily Edition, V. 138, Sept. 30, 1992. p. H9894-H9903.

¹⁰ Providing for consideration of House Joint Resolution 553, Continuing Appropriations, 1993. Debate in the House. *Ibid.*, p. H9894.

220 cosponsors) was called up under a suspension of the rules on October 2, 1992. On the following day H.R. 2164 passed the House by vote of 312-97.¹¹

House and Senate Votes in the 103rd Congress

Once again in the 103rd Congress, on March 10, 1993, Senator McCain attempted to offer an amendment containing the provisions of the Legislative Line Item Veto Act (which had been reintroduced as S. 9). This effort occurred during floor consideration of S. 460, the National Voter Registration Act. Following considerable debate on the amendment, the Senate rejected (45-52) the motion to waive Section 306 of the Budget Act.¹²

Initial 103rd Congress action in the House occurred on April 2, 1993, when the House briefly considered H.R. 1578, a revised version of expedited rescission, which had been reported by the Rules Committee with an amendment in the nature of a substitute, but the rule providing for consideration of the bill (H.Res. 149) was unexpectedly withdrawn without a vote. Action on the identical rule and bill was scheduled to resume on April 21. But for the second time, House leaders pulled the bill abruptly from the floor, apparently because of continuing concern that a vote on the rule would not pass. On April 28, the by now controversial rule again came to the floor, was debated, and voted upon, ultimately passing by only four votes. On April 29, 1993, the House continued consideration of H.R. 1578, eventually passing H.R. 1578 by vote of 258-157. During the consideration of H.R. 1578, the Castle amendment in the nature of a substitute, providing enhanced rescission authority, was rejected (198-219).¹³

Meanwhile, on Mar. 25, 1993, the Senate adopted two sense-of-the-Senate amendments relating to rescission reform as a part of the Budget Resolution for FY 1994: the Bradley Amendment, regarding separate enrollment for items in appropriations and tax measures, and the Cohen Amendment, supporting expedited rescission authority with regard to items of appropriation, tax expenditures, and direct spending. The former was approved by vote of 73-24 after Senator Robert Byrd, Chairman of the Appropriations Committee, rather unexpectedly stated his support: "I know what is in the amendment. It would extend the veto to tax expenditures. I think we all ought to vote for this amendment."¹⁴ The conference version retained a single sense-of-the-Senate provision in this regard, stating the "President should be granted line-item veto

¹¹*Congressional Record*, Daily Edition, v. 138, Oct. 2, 1992, p. H10805-H10816; and Oct. 3, 1992, p. H10975-H10976.

¹²*Congressional Record*, Daily Edition, v. 139, March 10, 1993, p. S2576-S2601.

¹³*Congressional Record*, Daily Edition, v. 139, April 28, 1993, p. H2084-H2104; April 29, 1993, p. H2138-H2163.

¹⁴*Congressional Record*, Daily Edition, v. 139, March 25, 1993, p. S3686.

authority over items of appropriations and tax expenditures" to expire at the end of the 103rd Congress.

On June 24, 1993, during debate on S. 1134, the Omnibus Budget Reconciliation measure, Senator Bradley again offered an amendment calling for item veto authority by requiring separate enrollment of items in appropriations bills and tax expenditures in revenue bills. This time, however, it was not sense-of-the-Senate language, but rather an actual effort to amend the Impoundment Control Act and create statutory authority for the new procedures. The motion to waive the Budget Act point of order failed of the necessary three-fifths majority by vote of 53-45; subsequently, a point of order was sustained, and the amendment fell.¹⁵

As adopted in May 1994, H.Con.Res. 218, the Budget Resolution for FY 1995, also contained sense-of-the-Congress provisions, including support for expedited rescission. This provision was already in the resolution as reported by the House Budget Committee.¹⁶ The language reiterated that legislation granting the President expedited rescission authority, such as H.R. 1578 already passed by the House, should be enacted.¹⁷

On June 23, 1994, the House Rules Committee reported H.R. 4600, the Expedited Rescissions Act of 1994, which was identical to H.R. 1578 as passed by the House on Apr. 29, 1993. The report accompanying H.R. 4600 explained that by considering an identical measure in the second session, the "House hopes to impress upon the Senate the importance of its own support for and action on these budget process reforms" (House Report 103-557, Part 1, p. 2).

On July 14, 1994, the House passed H.R. 4600, with an amendment in the nature of a substitute, by vote of 342-69. This Stenholm substitute amendment, which expanded upon the existing provisions in the bill for expedited rescission (e.g., adding "targeted tax benefits"), was agreed to by vote of 298-121. The Solomon substitute amendment, which sought to give the President enhanced rescission authority akin to an item veto, was rejected by vote of 205-218.¹⁸

¹⁵ *Congressional Record*, Daily Edition, V. 139, June 24, 1993. p. S7920-21.

¹⁶ See: House Report 103-428, p. 225.

¹⁷ Since this language was contained in the measure as reported, there was no separate floor vote on the sense of the Congress provision in support of expedited rescission, and hence no mention of it in Table 1 below.

¹⁸ *Congressional Record*, Daily Edition, v. 140, July 14, 1994. p. H5700-H5730.

Table 1. Selected Votes on or Relating to Measures to Provide Item Veto or Expanded Rescission Authority, 98th-103rd Congresses

Congress	Measure	Sponsor	Date/Chamber	Vote	Type of Proposal
103rd	H.R. 4600, as amended	Spratt	7/14/94 House	342-69	Strengthened Expedited rescission
103rd	Amendment to H.R. 4600	Stenholm	7/14/94 House	298-121	Strengthened Expedited rescission
103rd	Amendment to H.R. 4600	Solomon	7/14/94 House	205-218	Enhanced rescission
103rd	Amendment 542 to S. 1134	Bradley	6/24/93 Senate	53-45 (Budget Act waiver)	Separate enrollment
103rd	H.R. 1578	Spratt	4/29/93 House	258-157	Expedited rescission
103rd	Amendment to H.R. 1578	Castle	4/29/93 House	198-219	Enhanced rescission
103rd	Amendment 264 to S. Con. Res. 18	Bradley	3/25/93 Senate	73-24	Separate Enrollment
103rd	Amendment 200 to S. Con. Res. 18	Cohen	3/25/93 Senate	Voice Vote	Expedited rescission
103rd	Amendment 200 to S. Con. Res. 18	Cohen	3/25/93 Senate	34-65 (to table)	Expedited rescission
103rd	Amendment 73 to S. 460	McCaïn	3/10/93 Senate	45-52 (Budget Act waiver)	Enhanced rescission
102nd	H.R. 2164	Carper	10/3/92 House	312-97	Expedited rescission
102nd	H Res. 580 (Rule accompanying H.J. Res 553)	Solomon	9/30/92 House	213-204 (rule)	Enhanced rescission

Table 1. Selected Votes on or Relating to Measures to Provide Item Veto or Expanded Rescission Authority, 98th-103rd Congresses

Congress	Measure	Sponsor	Date/Chamber	Vote	Type of Proposal
102nd	Amendment 3013 to H.R. 5677	McCain/Coats	9/17/92 Senate	40-56 (Budget Act waiver)	Enhanced rescission
102nd	H Res. 530 (Rule accompanying H.R. 5678)	Solomon	7/30/92 House	240-176 (previous question)	Enhanced rescission
102nd	H Res. 527 (Rule accompanying H.R. 5620)	Solomon	7/28/92 House	207-199 (previous question)	Enhanced rescission
102nd	H Res. 517 (Rule accompanying H.R. 5503)	Solomon	7/22/92 House	236-171 (previous question)	Enhanced rescission
102nd	Amendment to H.R. 2637	Walker	7/21/92 House	144-248	Separate Enrollment
102nd	Amendment to H.J. Res. 290	Kyl	6/11/92 House	170-258	Item veto
102nd	Amendment 1698 to S. 479	McCain	2/27/92 Senate	44-54 (Budget Act waiver)	Enhanced rescission
101st	Amendment 1955 to S. 341	McCain	6/6/90 Senate	43-50 (Budget Act waiver)	Enhanced rescission
101st	Amendment 1092 to H.R. 3015	Coats et al.	11/9/89 Senate	40-51 (Budget Act waiver)	Enhanced rescission
100th	Amendment 650 to H.J. Res. 324	Evans	7/31/87 Senate	41-48	Separate Enrollment
100th	Amendment 1294 to H.J. Res. 395	Evans	12/11/87 Senate	44-51	Separate Enrollment

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Table 1. Selected Votes on or Relating to Measures to Provide Item Veto or Expanded Rescission Authority, 98th-103rd Congresses

Congress	Measure	Sponsor	Date/Chamber	Vote	Type of Proposal
99th	S 43	Mattingly et al.	7/18/85 Senate	57-42 (cloture)	Separate Enrollment
99th	S 43	Mattingly et al.	7/24/85 Senate	58-40 (cloture)	Separate Enrollment
99th	Amendment 2853 to S 2706	Quayle/Exon	9/19/86 Senate	34-62 (Budget Act waiver)	Enhanced rescission
98th	Amendment to H R 2165	Gramm	1/22/84 House	131-245	Item veto
98th	Amendment to H R 2878	Gingrich	1/31/84 House	144-248	Item veto
98th	Amendment to H R 2708	Gekas	2/23/84 House	145-243	Separate Enrollment (variation)
98th	Amendment 2625 to H J. Res. 308	Armstrong	11/16/83 Senate	49-46 (to table)	Enhanced rescission
98th	Amendment 3045 to H R 2163	Mattingly	5/3/84 Senate	56-34 (out of order)	Item veto
75th	Amendment to H.R. 8837*	Woodrum	1/11/38 House	Approved by voice vote	Item veto

* This line-item veto proposal, approved by voice vote in the House, was dropped before final passage of the bill which it amended (Independent Offices Appropriations for 1939). The Gramm amendment in the 98th Congress contained the same language, and the Gingrich amendment was similar.

SELECTED DEBATE FROM THE 102d CONGRESS

February 26, 1992

[From the Congressional Record pages S2268-2311]

AMENDMENT NO. 1698

(Purpose: To grant the power to the President to reduce budget authority)

Mr. MCCAIN. Mr. President, I have an amendment at the desk. I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Arizona [Mr. MCCAIN] for himself, Mr. COATS, Mr. DOLE, Mr. MCCONNELL, Mr. WALLOP, Mr. NICKLES, Mr. SIMPSON, Mr. BOND, Mr. MACK, Mr. SMITH, Mr. PRESSLER, Mr. WARNER, Mrs. KASSEBAUM, Mr. ROTH, Mr. HELMS, Mr. GARN, Mr. CHAFEE, Mr. SYMMS, Mr. LOTT, Mr. KASTEN, Mr. BROWN, Mr. CRAIG, Mr. THURMOND, Mr. MURKOWSKI, Mr. EXON, Mr. GRAMM, Mr. LUGAR, Mr. BURNS, Mr. BOREN, and Mr. SEYMOUR, proposes an amendment numbered 1698.

Mr. LEAHY. Mr. President, I do not want to object. The amendment is short. It might make it a lot easier for all staff to have it read through unless the Senator was about to describe it.

Mr. MCCAIN. I was going to describe it.

Mr. LEAHY. Then I shall not object.

Mr. MCCAIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendment is as follows:

At the appropriate place, insert the following:

SEC. . LEGISLATIVE LINE ITEM VETO ACT OF 1991.

(a) **SHORT TITLE.**—This section may be cited as the “Legislative Line Item Veto Act of 1991”.

(b) **ENHANCEMENT OF SPENDING CONTROL BY THE PRESIDENT.**—The Impoundment Control Act of 1974 is amended by adding at the end thereof the following new title:

“TITLE XI—LEGISLATIVE LINE ITEM VETO RESCISSION AUTHORITY

“PART A—LEGISLATIVE LINE ITEM VETO RESCISSION AUTHORITY

“GRANT OF AUTHORITY AND CONDITIONS

“SEC. 1101. (a) IN GENERAL.—Notwithstanding the provisions of part B of title X and subject to the provisions of part B of this title, the President may rescind all or part of any budget authority, if the President—

“(1) determines that—

“(A) such rescission would help balance the Federal budget, reduce the Federal budget deficit, or reduce the public debt;

“(B) such rescission will not impair any essential Government functions; and

“(C) such rescission will not harm the national interest; and

“(2)(A) notifies the Congress of such rescission by a special message not later than 20 calendar days (not including Saturdays, Sundays, or holidays) after the date of enactment of a regular or supplemental appropriations Act or a joint resolution making continuing appropriations providing such budget authority; or

“(B) notifies the Congress of such rescission by special message accompanying the submission of the President’s budget to Congress and such rescissions have not been proposed previously for that fiscal year.

The President shall submit a separate rescission message for each appropriations bill under paragraph (2)(A).

“(b) RESCISSION EFFECTIVE UNLESS DISAPPROVED.—(1)(A) Any amount of budget authority rescinded under this title as set forth in a special message by the President shall be deemed canceled unless during the period described in subparagraph (B), a rescission disapproval bill making available all of the amount rescinded is enacted into law.

“(B) The period referred to in subparagraph (A) is—

“(i) a Congressional review period of 20 calendar days of session under part B, during which Congress must complete action on the rescission disapproval bill and present such bill to the President for approval or disapproval;

“(ii) after the period provided in clause (i), an additional 10 days (not including Sundays) during which the President may exercise his authority to sign or veto the rescission disapproval bill; and

“(iii) if the President vetoes the rescission disapproval bill during the period provided in clause (ii), an additional 5 calendar days of session after the date of the veto.

“(2) If a special message is transmitted by the President under this section during any Congress and the last session of such Congress adjourns sine die before the expiration of the period described in paragraph (1)(B), the rescission shall not take effect. The message shall be deemed to have been retransmitted on the first day of the succeeding Congress and the review period referred to in paragraph (1)(B) (with respect to such message) shall run beginning after such first day.

“DEFINITIONS

“SEC. 1102. For purposes of this title the term ‘rescission disapproval bill’ means a bill or joint resolution which only disapproves a rescission of budget authority, in whole, rescinded in a special message transmitted by the President under section 1101.

“PART B—CONGRESSIONAL CONSIDERATION OF LEGISLATIVE LINE ITEM VETO RESCISSIONS

“PRESIDENTIAL SPECIAL MESSAGE

“SEC. 1111. Whenever the President rescinds any budget authority as provided in section 1101, the President shall transmit to both Houses of Congress a special message specifying—

"(1) the amount of budget authority rescinded;

"(2) any account, department, or establishment of the Government to which such budget authority is available for obligation, and the specific project or governmental functions involved;

"(3) the reasons and justifications for the determination to rescind budget authority pursuant to section 1101(a)(1);

"(4) to the maximum extent practicable, the estimated fiscal, economic, and budgetary effect of the rescission; and

"(5) all facts, circumstances, and considerations relating to or bearing upon the rescission and the decision to effect the rescission, and to the maximum extent practicable, the estimated effect of the rescission upon the objects, purposes, and programs for which the budget authority is provided.

"TRANSMISSION OF MESSAGES; PUBLICATION

"SEC. 1112. (a) DELIVERY TO HOUSE AND SENATE.—Each special message transmitted under sections 1101 and 1111 shall be transmitted to the House of Representatives and the Senate on the same day, and shall be delivered to the Clerk of the House of Representatives if the House is not in session, and to the Secretary of the Senate if the Senate is not in session. Each special message so transmitted shall be referred to the appropriate committees of the House of Representatives and the Senate. Each such message shall be printed as a document of each House.

"(b) PRINTING IN FEDERAL REGISTER.—Any special message transmitted under sections 1101 and 1111 shall be printed in the first issue of the Federal Register published after such transmittal.

"PROCEDURE IN SENATE

"SEC. 1113. (a) REFERRAL.—(1) Any rescission disapproval bill introduced with respect to a special message shall be referred to the appropriate committees of the House of Representatives or the Senate, as the case may be.

"(2) Any rescission disapproval bill received in the Senate from the House shall be considered in the Senate pursuant to the provisions of this section.

"(b) FLOOR CONSIDERATION IN THE SENATE.—

"(1) Debate in the Senate on any rescission disapproval bill and debatable motions and appeals in connection therewith, shall be limited to not more than 10 hours. The time shall be equally divided between, and controlled by, the majority leader and the minority leader or their designees.

"(2) Debate in the Senate on any debatable motion or appeal in connection with such a bill shall be limited to 1 hour, to be equally divided between, and controlled by, the mover and the manager of the bill, except that in the event the manager of the bill is in favor of any such motion or appeal, the time in opposition thereto shall be controlled by the minority leader or his designee. Such leaders, or either of them, may, from the time under their control on the passage of the bill, allot additional time to any Senator during the consideration of any debatable motion or appeal.

"(3) A motion to further limit debate is not debatable. A motion to recommit (except a motion to recommit with instructions to report back within a specified number of days, not to exceed 1, not counting any day on which the Senate is not in session) is not in order.

"(c) POINT OF ORDER.—(1) It shall not be in order in the Senate or the House of Representatives to consider any rescission disapproval bill that relates to any matter other than the rescission of budget authority transmitted by the President under section 1101.

"(2) It shall not be in order in the Senate or the House of Representatives to consider any amendment to a rescission disapproval bill.

"(3) Paragraphs (1) and (2) may be waived or suspended in the Senate only by a vote of three-fifths of the members duly chosen and sworn."

Mr. MCCAIN. Mr. President, before describing the amendment, I wish to express my deep appreciation to my friend and comrade in arms, Senator COATS, who is the leader on this issue. He and I have been fighting for this particular issue for many years. He is a person of political courage and depth of commitment to seeing that some kind of fiscal sanity be enacted in this out-of-control deficit and budget process that now afflicts every man, woman, and child in this Nation. I am grateful for his leadership and also his encouragement from time to time when we have been a little depressed about the prospects of seeing real reform being enacted.

Mr. President, this amendment enables the President, 20 days after enactment of an appropriations bill, to identify items of spending within that bill which the President believes are wasteful and to notify Congress that the President is eliminating or reducing the funds for those items.

The President may veto part or all of the funds for programs deemed wasteful.

It also allows the President to submit such enhanced rescissions with the budget submission at the beginning of the year. The second shot at proposing rescission assures that the President has the opportunity to strike pork barrel spending that may not be obvious during the first rescission period.

The Congress is required to overturn his line-item vetoes with majority votes in the House and Senate within 20 days or they become effective.

The President may veto the rescission disapproval bill. In that case, the veto may be overridden by a two-thirds vote of the House and Senate.

This amendment would not allow the President to rescind money for entitlements like Social Security, Medicare, or food stamps.

The amendment amends part B of title X of the Impoundment Control Act of 1974. It does not amend part A of title X of the Impoundment Control Act of 1974. The language from part A of title X is retained. It specifies that "nothing contained in this act, or in any amendment made by this act, shall be construed as * * * superseding any provision of law which requires the obligation of budget appropriations or the making of outlays thereunder."

I hope that explains the amendment to the satisfaction of my colleague from Vermont.

Mr. LEAHY. Mr. President, it explains——

The PRESIDING OFFICER. Does the Senator from Arizona yield the floor?

Mr. LEAHY. I thought the Senator was asking me a question.

Mr. MCCAIN. I do not yield.

Mr. LEAHY. I understood the Senator from Arizona was asking a question.

Mr. MCCAIN. I was not asking. I said I hope that satisfies the desire of my friend from Vermont.

Mr. LEAHY. May I respond?

The PRESIDING OFFICER. The Senator from Arizona has the floor.

Mr. LEAHY. May I respond?

Mr. MCCAIN. If the Senator will respond in less than 3 minutes, I would be very glad to yield.

Mr. LEAHY. I will be glad to. I can do this easily. It does explain it, but I must say with all due respect to my friend from Arizona, it appears that here we have a bill that is designed to create hundreds of thousands, if not millions, of well-paying jobs, and the Senator from Arizona appears, for whatever reason—he has every right to offer it—to be making a political statement that would stop those hundreds of thousands and millions of Americans from getting jobs and would allow the Japanese and Europeans to continue to eat our lunch because we do not have the guts to stand up and pass a bill that makes us as competitive as they are. So I understand it very well, Mr. President.

The PRESIDING OFFICER. The Senator from Arizona has the floor.

Mr. MCCAIN. I thank the Chair.

In response to the Senator from Vermont, I certainly appreciate the urgency which he attaches to his legislation and the importance of it. In fact, for about the last 45 minutes I was treated to a detailed description of not only his legislation but of the wonderful things it would do for America.

I would like to say to my friend from Vermont that this legislation will do a lot more than he has ever contemplated doing because it will bring down what is destroying America, and that is spending in the Congress. It is out of control, and the American people are sick and tired of it.

The budget process is broken. In 1960, the deficit was \$236.8 billion. In 1970, it was \$283.2 billion. In 1980, it was \$709.3 billion. In 1990, it was \$2.4 trillion. And it is expected to surpass \$4 trillion within the next year.

As much as I admire, respect, and appreciate the legislation proposed by the Senator from Vermont, sooner or later we are going to get this under control. It may not be today or tomorrow, but the American people have had enough. They have had enough.

What I intend to describe today is the effect on national security and the effect on the lives of tens of hundreds of thousands of American men and women who are serving in the military of the United States today, who we are going to tell we cannot afford to keep in the military even though many of them are minorities and

joined the military for a career, that we cannot afford to keep them in the military, but yet we can appropriate \$6.3 billion which was neither authorized nor requested. At the same time we are able to spend money on museums, for truck engines that the Pentagon cannot use, for military museums in certain Congressmen and Senators' districts, I am having to tell these young men and women I am sorry but you cannot stay in because we cannot afford to keep you.

Mr. COATS. Mr. President, will the Senator from Arizona yield? Mr. MCCAIN. I would be glad to yield for a question.

Mr. COATS. For a question.

I think the Senator from Arizona, and I—I want to ask him if he agrees with me—want to assure our colleagues and particularly the Senator from Vermont that this effort is in no way meant to derail the current legislation before us. I can assure our fellow colleagues that the vote will take place on this bill today, that Senator MCCAIN and I have no intention of filibustering this bill. We simply are looking for an opportunity to bring to the Senate floor a matter of extreme importance to us and to many—in fact, a solid majority of the American people.

Now, we have been asking for hearings, and we have been asking for straight up-or-down debate and vote on this matter of the line-item veto for several years, and we were not able to get that. We are not able to get that because the leadership in this body does not want us to have a straight up-or-down vote. And so we are reduced to the option that every Senator has of offering this as an amendment to another bill that is on the floor.

Undoubtedly a budget point of order will be offered. We will make a motion to waive that. But everyone ought to know that the procedure involved here is to force us to get 60 votes to pass this bill rather than 50.

There are many people that would prefer we never debate this subject, that we never have a vote on this issue. But I want to assure my colleagues that neither Senator MCCAIN nor I have any intention of denying the Senator from Vermont the opportunity to have a vote on the bill that is currently on the floor, to have it today, and this debate that is about to take place; from our side our perspective is not to delay this even over to the next calendar day.

So I think my colleague from Arizona is certainly within his rights and certainly has no intention, and neither do I, of denying one American the opportunity to receive a job through the bill that the Senator from Vermont has been talking about. That is not our intention.

Our intention is to have the Senate address the matter that we think is important and, frankly, we are not allowed any other opportunity to bring the bill freestanding to the floor. This is the only option that we have to do it. We tried numerous ways, and all of those have failed.

I thank the Chair. I thank the Senator from Arizona for yielding.

Mr. MCCAIN. I had the floor.

The PRESIDING OFFICER. The Senator from Arizona has the floor.

Mr. MCCAIN. Mr. President, I would like to talk about who supports this legislation.

THE WHITE HOUSE,
Washington, February 26, 1992.

Hon. JOHN MCCAIN,
U.S. Senate, Washington, DC.

DEAR JOHN: I strongly support the efforts of you and Senator Coats to provide me and future Presidents with a form of legislative line-item veto authority. In my State of the Union Address, I once again urged your colleagues in the Senate and the House to give me what 43 Governors currently enjoy—the line-item veto.

Your approach is a fair compromise. It allows me to eliminate or reduce items I believe are wasteful of taxpayers' dollars, but it also gives Congress the opportunity to overturn these rescissions or reductions.

Billions upon billions of dollars have been wasted over the years on programs of a parochial nature with dubious value to the American taxpayer. The line-item veto approach, whether instituted through the Constitutional amendment I have previously proposed or through your statutory initiative, is the best way to prevent future wasteful spending and to rein in deficit spending.

I appreciate and fully support your amendment.

Sincerely,

GEORGE BUSH.

The following letter I received on the "Buchanan for President" stationery:

"I will veto any new taxes. I will not beg for a line-item veto. I will use the line-item veto the president already possesses. If raising taxes relieved the deficit, we would have had a balanced budget by now; but we don't. Instead, we have a \$400 billion deficit. If deficit spending is the road to economic prosperity, we would have prosperity now. Instead, we have a 20-month recession. If Congress won't cut spending, then we must use the line-item veto to tell Congress that the American people won't accept their spending habits."

Next I have a letter from the Tsongas for President committee:

Sen. Paul Tsongas, Democratic Candidate for President, supports the line-item veto. He believes that it is an effective way of reducing waste in government.

Thank you for your interest.

Sincerely,

STEPHEN M.L. COHEN.

Next, Mr. President, from the Bill Clinton for President Committee:

"GOVERNOR BILL CLINTON ON THE LINE-ITEM VETO

"I strongly support the Line-Item Veto, because I think it's one of the most powerful weapons we could use in our fight against out of control deficit spending."

I myself recently heard Presidential candidate Jerry Brown strongly support the line-item veto. It is interesting that the only

two Presidential candidates on the Democratic side who have not supported the line-item veto obviously are Members of this body.

Mr. President, I want to mention again the reason this is such a very important issue. A recent poll by the New York Times and CBS showed that 71 percent of the American people disapprove of Congress, 17 percent approve.

If any of us would take the time to go out and ask the men and women that we represent, which I do frequently, they will tell you that one of their greatest and legitimate concerns is about the out-of-control spending, and the fact that spending has become a way of life and a parochial system to a degree that we can no longer afford.

In good times, it is one thing. In bad times, it is something else.

I am not going to focus my remarks today on the \$2.5 million appropriation that is used to study the effect on the ozone layer of flatulence in cows. I am not talking about weed institutes. I am not going to talk about the things that make the American people laugh and cry at the same time.

What I am primarily going to talk about is the \$6.3 billion that was appropriated last year over the authorization bill—many of which by the way are very legitimate programs, and many are not. I am not here to judge many of those programs as I am the process.

The process is broken. And, at the same time that we are going to spend more than \$20 million on some engines for trucks that the Pentagon says they will have to put in a warehouse someplace and never use, we are telling men and women, "I am sorry. We cannot afford to keep you." And we are throwing them out by the thousands. That is not acceptable in our society today.

I want to emphasize again, Mr. President, some of the programs that have been appropriated without authorization—many of them, by the way, added in conference—on either bill are legitimate. Many are not. And the only way we can get rid of those that are not is by reforming the process. That process means giving the President a line-item veto.

Mr. President, this legislation will be characterized as it has in the past as a dangerous transfer of political power to the executive branch. Forty-three Governors out of fifty in the United States of America, including Governor Clinton who is running for President of the United States, say that that has not been abused; that is not a dangerous transfer of power.

The difference, as you know, is that these Governors have to balance their budgets. We do not. They will tell you, Governors both Republican and Democrat, that one of the most useful tools that they have is the line-item veto—that without it, they would have great difficulty in balancing their budgets which, as I mentioned, we do not seem to have to do, despite the fact that there are laws on the books that mandate that we do so.

What is dangerous is what is happening to the administration of the Government. This kind of spending is threatening our national security, and consuming resources that could be better spent on a tax cut, deficit reduction, or health care.

I want to emphasize again that nobody believes that our budget deficit is not out of control. I repeat these numbers: In 1960, the Federal deficit held by the public was \$236.8 billion. In 1970, it

was \$283.2 billion. In 1980, it was \$709.3 billion. In 1990, it was \$2.4 trillion. It is expected to surpass \$4 trillion within the next year.

We cannot do it, Mr. President. If I had said 4 years ago when Senator COATS and I first tried to get this line-item veto that next year we are going to spend more money on interest on the national debt than on national defense, they would have said I was crazy. That is what we are going to do next year; we are going to spend more on interest on the national debt than on defending this Nation's vital security interests.

Who is going to pay for it, Mr. President? I think we know who is going to pay; not us; our kids. Our kids, and our grandchildren, because this thing has gotten so big that there is no way we can get it under control.

I do not make the charge that this spending is threatening our national security without a great deal of consideration. After last year's defense appropriations bill, it is unfortunately clear how dangerous this kind of spending can be to our national security. It should now be clear how urgent the line-item veto is.

Mr. President, I will not take too long. Just some examples:

The bill mandates that a single contractor get a noncompetitive extension of a contract for CHAMPUS services worth over \$1 billion; the sum of \$20 million in gasoline truck engines to keep one firm alive at a time when the Army has a more than 10-year surplus of such engines and is converting to multifuel engines; \$175 million in upgrades for the F-14 whose nature is undefined, which seems to be designed to subsidize an engine manufacturer and which will create a fourth configuration of the F-14 rather than attempt to address Navy's real development problems; the sum of \$35.5 million for 155-millimeter artillery rounds may be a good idea but why 155-millimeter rounds and not all the others? The sum of \$8 million to subsidize the manufacture of tactical trailer and dolly sets. That seems to be over \$80 million over black programs, which now seem to have black budgets.

The sum of \$356.5 million above the increase we made is authorized for still more C-130's, a plane constantly being thrust on the National Guard without regard for the Guard's overall priorities and the need for a modern total force concept. Further, there is another \$42.6 million for C-130 modifications.

The sum of \$238 million for LCAC landing craft, to double the number from 12 to 24. Although the authorization act questions the need for 12, and the appropriations bill does not fund an LSD-49, called an amphibious landing ship, which was both requested and authorized.

The sum of \$114 million in university set-asides that subsidize certain schools without any competition, without any concern for academic excellence, and without concern for the taxpayers—often make gifts of \$10 million to \$29 million of the taxpayers' money to a given school.

Mr. President, I do not like to point to specific examples, but one that struck my interest: \$10 million went to a small school in Pennsylvania—over one-third of that school's budget—to study stress in the military. Do you know where the stress is in the mili-

tary today, Mr. President? It is in people that are in fear of their jobs and careers.

Ten million dollars—\$10 million to study stress in the military was given to a school, without any competition—without any that I know of, or that this body was made aware of. And maybe it is a very highly qualified institution, but there is no way I would have any way of knowing.

The sum of \$25 million for an Arctic region supercomputer that I understand is going to be used to gather energy and study it from the aurora borealis. I think that is probably a worthwhile project, but I am not sure it should supersede the lives and careers of men and women who want to stay in the military that we are forcing out.

The sum of \$55 million to satisfy a private manufacturer's claim for cost overruns. I will end with this, because I do not want to take too long. The sum of \$55 million to satisfy a private manufacturer's claim for cost overruns on TAGS 39 and 40 ships built during 1989 and 1990 that it could never get through the law. Let me discuss this in more detail.

As a result of actions, the source and nature of which are not clear to me, the defense appropriations bill would provide \$55 million to a single firm, the Baltimore Marine Division of Bethlehem Steel, for cost overruns on two TAGS 39 ocean surveying ships.

This \$55 million would be given to Bethlehem steel, even though the taxpayers already paid \$196.7 million for these ships. It would be given, although the Department of Defense did not request it, although the money is not authorized; and the money was not included in the House or Senate defense appropriations bills. The \$55 million of the taxpayers' money would be given away, although none of the merits claimed have been decided by the proper courts and boards, and such claims are pending.

Bethlehem Steel already filed requests for equitable adjustments by the Navy and requested relief from the Secretary of the Navy and filed suit in the U.S. Claims Court.

There are many other examples, and I may be wrong about some of these. But if I, as a member of the authorizing committee, had been allowed to examine many of these, I might—emphasizing might—be more supportive.

I want to talk again about the men and women in the military that are being affected by the fact that we cannot afford to keep them.

DEAR SENATOR MCCAIN: I have been a loyal, dedicated Marine for 5 years 7 months. I served 7 months in Saudi Arabia in the Marine aircraft group 18, for which I received the Navy Commendation Medal of Leadership and Organization Skill, et cetera, et cetera. Now I have no choice but to step down.

My questions to you, Senator MCCAIN, are what are your thoughts on the Marine Corp Draft Board selection process? What can you do to amend the law that all the military offers stated a 5-year requirement?

I will be unemployed February 15, 1992. I thank you for your time and effort.

DEAR SENATOR: I was just on the phone with my husband, who commutes up here from Yuma. He is retired out of the Marine Corps. I was telling him I would have to write to our Congressmen about what the Army is doing to men like our son, with 17 years in. Now he has been told that the Army finds, among other units, his unit is overspent.

In their zeal, the Army expects every man to apply for an early-out. In return for 17 years in, they will give Richard an annuity for 39 years.

What is so tragic about this process is that the ones who have an excellent record and received the Bronze Star, like our son received in Saudi, will be thrown out along with the unexcels. There is a real calamity going on in the military community.

DEAR SENATOR: I have been passed over for promotion, and my military service is exemplary. Even though I would have been eligible for retirement in less than 3 years, I was optimistic of my achievement to allow for my promotion to major in 1991, and several more years as a productive officer before retirement.

The Air Force has given me until the 15th of April to separate or face a 95 percent possibility of involuntary discharge and notification in July. So time is definitely not on my side.

I would greatly appreciate efforts to resolve this inequity against a very small group of individuals. On behalf of myself, I thank you in advance.

I have hundreds of these letters, Mr. President, from people who say that they want to stay in the military. I think that all of the funds that we have available should be spent to be able to keep them in, at least for a longer period of time, and perhaps at least ease the transition. We cannot do that when we are spending monies on unnecessary and unwanted projects, and the fact is clear.

Mr. President, in 1989, Senator COATS and I offered the same amendment. It received 40 votes. I hope my colleagues who voted against the line-item veto then now realize the need for congressional reform. I hope they realize that the reform of Washington begins today with the line-item veto.

According to a recent GAO study, \$70 billion could have been saved between 1984 and 1989 if the President had a line-item veto. I know my colleague, Senator COATS, will expand on that later on. But the \$70 billion are only those that the President asked for rescission, not those that he would have if he had had rescission power.

Mr. President, we cannot turn a blind eye to unnecessary spending. We cannot ignore the line-item veto when it is self-evident how effective it can be in reducing the deficit.

The \$6.3 billion would pay for the personnel and operating costs of 195,000 enlisted personnel in the Air Force for 1 year. It would pay for the operating costs of up to 16 carrier battle groups for 1 year. It would pay for the operating costs of eight to nine fully armored Army divisions. It would pay for the operating costs of 14 to 15 light infantry divisions for 1 year. It would pay for the total operation of the soon-to-be-closed Williams Air Force Base in Arizona for 50 years.

This kind of spending is affecting our national security. The time has come for a line-item veto. And it is time to end business as usual. The American people deserve better.

Let me tell you that a President empowered with the veto is not considered a threat to our Republican form of Government by the Framers of the Constitution. According to Alexander Hamilton in Federalist No. 73, the views of the Founding Fathers on executive veto power are as follows:

"It [the veto] not only serves as a shield to the executive, but it furnishes an additional security against the enactment of improper laws. It establishes a salutary check upon the legislative body, calculated to guard the community against the effects of faction, precipitancy, or any impulse unfriendly to the public good, which may happen to influence a majority of that body."

(Mr. KOHL assumed the chair.)

Mr. MCCAIN. Mr. President, given Congress' predilection for pork barrel spending, omnibus spending bills and continuing resolutions, it would seem only prudent and constitutional to provide the President with functional veto power.

The President must have more than the option of vetoing a spending bill and shutting down the Government or simply submitting to congressional coercion.

Mr. President, let me emphasize that this amendment more closely resembles enhanced rescission power. The Congress is not transferring power. We are proposing an end to business as usual. The taxpayer needs protection.

Furthermore, this strictly defined and limited line-item veto will not fundamentally upset the balance of power between the executive and legislative branches. And, it is consistent with the values expressed in our Federal Constitution.

Mr. President, criticism of the line-item veto has not stopped with the unfounded charge of upsetting the delicate balance of power between the President and Congress. Opponents claim that it would give the President the power to coerce the Congress. That is not true anymore given the power of 43 Governors in the United States of America who have this power.

The President is given very limited power by this amendment. It is limited to appropriation bills and only for a limited time after their passage.

Congress is guaranteed the opportunity to quickly overturn the President's rescissions. Opponents may hide behind the charge of coercion, but Congress would not submit to Presidential extortion. They would expose the President's coercion, and overturn any offensive rescission.

Charges that the President would abuse this power are misleading and unfounded.

Again, I will rely upon Alexander Hamilton, who posed this question to his contemporaries in Federalist No. 73:

"If a magistrate so powerful and so well fortified as a British monarch would have scruples about the exercise of the power under consideration, how much greater caution may be reasonably expected in a President of the United States, clothed for the short period of four years with the executive authority of government wholly and purely republican?"

This legislation will merely require the Congress to recognize the President's rescissions, which are largely ignored, and help reduce wasteful spending. It is not a means for Presidential abuse, but a means to end congressional abuse.

It will give the President limited power in controlling spending and reducing the deficit.

It should be self-evident to all Senators that controlling spending is something that the Congress is completely unable to do. I bring to the Senate's attention the \$3.7 trillion public debt as irrefutable proof of our inability to control spending.

This inability to control spending was aggravated in 1974 by the Budget Control and Impoundment Act. If opponents of this amendment are in search of a dangerous transfer of political power, they can end their search with that power grab by Congress.

Specifically, the Budget Control and Impoundment Act of 1974 weakened executive power by allowing the Congress the legal option of ignoring the spending cuts recommended by the President through simple inaction.

Since 1974, the Congress' attitude toward Presidential rescissions has become one of near total neglect.

For example, President Ford proposed 150 rescissions, and Congress ignored 97. President Carter proposed 132 rescissions, and Congress ignored 38. President Reagan proposed 601 rescissions, and Congress ignored 384. President Bush has proposed 47 rescissions, and Congress ignored 45.

If the Congress had accepted the 564 Presidential rescissions that it has ignored since 1974, \$40.4 billion would have been saved. This is not a trivial sum to a taxpayer, even if it is to a hardened Washington veteran.

The practice of ignoring Presidential rescissions is in contrast to the practice prior to the power grab by Congress in 1974.

Presidents Truman, Eisenhower, Kennedy, Johnson, and Nixon all impounded funds that Congress had appropriated for line-item projects.

In the most telling example of Presidential impounding as a means of controlling spending, President Johnson impounded \$5.3 billion for many of his Great Society programs during the Vietnam war to quell inflation.

These modern Presidents were not alone in their exercise of rescission power. In 1801, President Jefferson refused to spend \$50,000 on gunboats as appropriated by Congress.

He, of course, had good reason. When the gunboats were appropriated, a war with Spain was considered imminent. The war never materialized, and the threat posed by Spain ebbed. Circumstances changed, and Jefferson thought it was within his power to eliminate this unnecessary spending.

The money for the gunboats was not spent, and money was not appropriated in 1802 for the gunboats.

Clearly, the Union did not fall because the President refused to waste the taxpayers' money.

Until 1974, our Presidents had the power to decide whether appropriated moneys should be spent or not.

Thus, whether through rescission, impoundment, or deferral, the executive branch had a significant role in spending control prior to the Budget Control and Impoundment Act of 1974.

My amendment simply does not constitute a transfer of power to the executive branch. In fact, it will reestablish the balance of power between the executive and legislative branches in matters of appropriations that existed before the Budget Control and Impoundment Act of 1974.

Mr. President, I seek this body's attention to an article of Sunday, February 3, by Mr. George Will. Mr. Will makes, I think, a very strong case, and I would just like to read a couple of excerpts from it.

"The word 'veto' is not in the Constitution. The veto power is in the 'presentment' clause (Article I, Section 7, Clause 2), which says 'every bill' passed by both houses of Congress must be presented to the president. 'If he approve, he shall sign it'; if not, he shall return it and Congress can try to override his rejection by a two-thirds vote in both houses.

"But what is a 'bill'? The Constitution's next clause says 'every order, resolution or vote' to which the House and Senate must concur (other than for adjournment) must be presented to the president. Rep. Tom Campbell (R-Calif.), a former Stanford Law professor, says that items Congress has separately debated and voted, often after separate hearings in different committees, the president should also be able to consider separately. That would fulfill the Framers' intentions for the veto's role in the system of checks and balances.

"Congress defeats the Framers' intentions by bundling disparate measures into huge omnibus bills, presenting presidents with all-or-nothing choices. A meaningful veto power is lost when the cost of its exercise is governmental chaos."

Mr. President, I ask unanimous consent that the complete article be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Feb. 23, 1992]

LAWRENCE WELK AND LINE ITEMS

(By George F. Will)

Recently George Bush went wandering again in the tangled underbrush of his syntax: "I'm all for Lawrence Welk. Lawrence Welk is a wonderful man. He used to be or was, or whatever he is now, bless him. But you don't need \$700,000 for a Lawrence Welk museum when we've got tough times and people in New Hampshire are hurting."

Welk, bless him, is alive—much more so than Bush's feeble campaign for a line-item veto. If presidents had such a veto, Bush could veto pork projects like the Welk museum in North Dakota—which museum, by the way, is no proper project for Congress even when New Hampshire is in clover.

Bush periodically says he longs for a line-item veto—the power to veto parts of bills rather than reject entire bills. He has even said he thinks he already has the constitutionally implied power to

wield such a veto. But he neither presses Congress to authorize such a veto nor asserts the implied power.

Now come Sens. John McCain (R-Ariz.) and Dan Coats (R-Ind.), an anti-litter squad plucking from the dust an idea discarded there by Bush after he milked it for political rhetoric and then lost interest. This week McCain and Coats will introduce a measure to give presidents line-item veto power.

The word "veto" is not in the Constitution. The veto power is in the "presentment" clause (Article I, Section 7, Clause 2), which says "every bill" passed by both houses of Congress must be presented to the president. "If he approve, he shall sign it"; if not, he shall return it and Congress can try to override his rejection by a two-thirds vote in both houses.

But what is a "bill"? The Constitution's next clause says "every order, resolution or vote" to which the House and Senate must concur (other than for adjournment) must be presented to the president. Rep. Tom Campbell (R-Calif.), a former Stanford Law professor, says that items Congress has separately debated and voted, often after separate hearings in different committees, the president should also be able to consider separately. That would fulfill the Framers' intentions for the system of checks and balances.

Congress defeats the Framers' intentions by bundling disparate measures into huge omnibus bills, presenting presidents with all-or-nothing choices. A meaningful veto power is lost when the cost of its exercise is governmental chaos.

People wonder why, if presidents have always had the implied line-item veto, no one exercised it. The answer is that presidents from Washington through Nixon did, by impounding appropriated funds. Congress, exploiting post-Watergate antagonism toward the presidency, virtually ended impounded in 1974.

True, Washington said, "From the nature of the Constitution, I must approve all the parts of a bill, or reject it, in toto." But in Washington's day, Congress passed extremely general, lump-sum appropriations bills, expecting presidents to exercise vast discretion about spending. The First Congress's appropriation bill in 1787 could be typed on a single, double-spaced page. But 199 years later, President Reagan in a State of the Union address hoisted a 43-pound, 3,296-page omnibus bill, a graphic argument for the line-item veto.

Forty-three governors have the line-item veto. It would be no panacea for federal deficits because so much of the budget is obligatory interest and entitlement spending. But thousands of ripe targets for line-item vetoes involve billions of dollars. Congress could still override any item veto, but it would not be comfortable mustering two-thirds majorities, item by item, for pieces of parochial pork.

Last May, four senators and 44 representatives urged Bush to assert the implied power of a line-item veto. A Bush aide responded limply that because constitutional scholars differed about this power, "You've got to make sure you've got a good test case."

Bush says he has been looking for one since 1989. But if after 1,125 days he still can't find one, he isn't seriously looking. Besides, once a president asserts the power, making a case against it will be Congress's problem, perhaps in the Supreme Court.

If a president unilaterally exercised a line-item veto, the court might side with him. If it sided with Congress, he would still win by having focused attention on Congress's defense of indefensible practices. Or the court might declare this a "political question" that the legislative and executive branches must fight out. Public opinion would then be decisive, and a serious president would win. So what is needed is a serious president, one who means what the current one says about the veto power.

Mr. McCAIN. Let me reiterate, this legislation only pertains to appropriation bills. This legislation will not give the President the authority to line-item veto provisions on nonappropriation bills. And, again, Congress need only overturn the President's rescissions by a simple majority if Congress disapproves.

Again Alexander Hamilton in Federalist No. 73 sheds light on the role of executive veto power in our system of checks and balances:

"When men, engaged in unjustifiable pursuits, are aware that obstructions may come from a quarter which they cannot control, they will often be restrained by the apprehension of opposition from doing what they would with eagerness rush into if no such external impediments were to be feared."

Those opposed to this amendment should consider that pithy statement, and question whether they may be simply defending "unjustifiable pursuits" like bovine flatulence studies, Abraham Lincoln Research and Interpretative Centers, unauthorized spending, or projects that "demonstrate methods of eliminating traffic congestions."

Let me now turn to another criticism of the line-item veto. Many opponents claim that a President with line-item veto authority could not balance the budget or even significantly reduce the deficit. I will make no claims that this amendment is the answer to all our budgetary problems.

With roughly \$1 trillion of entitlement spending in a budget of \$1.5 trillion, it is clear that a line-item veto will not be the tool that solves all of our fiscal difficulties.

Only a Congress with a political will not characteristic of recent Congresses' will be able to balance the budget.

But, a President dedicated to restraining Federal spending could use line-item veto power as an effective tool to reduce government spending and move closer to a balanced budget than we are today.

The GAO study makes my point, A President with line-item veto authority could have saved the American taxpayer \$70 billion since 1974.

Let me draw upon recent experience to emphasize that point. I will use the appropriation bill for the Department of Defense.

The SSN-21 attack submarine, known as the *Seawolf*, is a weapon system that no longer has a mission—not unlike Jefferson's gunboats.

Unless the program is canceled, it will cost at least another \$4.6 billion between fiscal year 1993 and 1997.

There is no justification for an incredibly expensive submarine to fight a Soviet naval threat that no longer exists—much like the Spanish threat in 1801.

The *Seawolf* Program is also plagued with management problems, combat system development problems, manufacturing problems, and quite likely cost overrun problems.

Thus, we have a submarine that no longer has a mission, and if it had a mission, it likely would be unable to meet the requirements of that mission. And, if it did meet the requirements, it would likely be at a cost well over its original estimated cost.

It is an item that could be eliminated from the budget without impairing our national defense.

And, a President determined to control Federal spending, and armed with a line-item veto could save the taxpayers over \$1.9 billion for each submarine, \$1,903,225,000.

The President could do that by line-item vetoing the funding for the *Seawolf* in title III, Navy shipbuilding and conversion of Public Law 102-172.

Under the provisions of our amendments, the President would sign the appropriations bill into law minus the specific line-item veto of the *Seawolf* Program.

The House and the Senate would then have 20 days to pass a rescission disapproval bill with a simple majority of votes, and present that to the President for approval or disapproval.

The President then has an additional 10 days, not including Sundays, to sign or veto the rescission disapproval bill.

The House and the Senate could override the President's veto within a 5-day period with a two-thirds vote.

If either House of the Congress failed to act on either of the President's vetoes, the rescission would be considered accepted.

This procedure is clearly far stricter on the Executive than the procedure employed prior to 1974. A strong argument can be made that this amendment restricts the power of the Executive as opposed to transferring power to the Executive—especially if one is inclined to believe that the President already has a constitutional line-item veto right like Jefferson executed in 1801.

Notwithstanding the procedural hurdles, it should be clear that a determined President could reduce spending with a line-item veto. It should also be clear that a more determined Congress could override the President.

And finally, I would again like to revisit the 1992 Defense appropriation bill. In that legislation, there was \$6.3 billion in unauthorized spending. This happened despite the fact that the law specifically provides that:

"No funds may be appropriated for any fiscal year, or for the use of any armed force or obligated or expended (for procurement, R&D, etc.) unless funds therefore have been specifically authorized by law."

The Congress chose to violate the law. A President armed with a line-item veto could save the taxpayer \$6.3 billion.

A determined President may not be able to balance the budget—only the voters can ultimately control Congress—but a determined President could make substantial progress toward real spending reduction.

As we approach the 1993 budget cycle, many tough spending decisions will have to be made. According to the testimony of the Di-

rector of the Congressional Budget Office, Robert Reischauer, on January 22, 1992:

"Meeting the discretionary spending limits for fiscal year 1993 will require holding defense and domestic appropriations below their 1992 levels, after allowing for inflation. By CBO's calculations, the required cuts in defense budget authority amount to \$15 billion, or 5 percent below the 1992 level. For domestic discretionary programs, the budget authority cut is \$6 billion, or 3 percent. Required outlay reductions total almost \$9 billion, which amounts to 4 percent of total domestic discretionary outlays and 8 percent of outlays from new budget authority."

When Congress looks for \$21 billion in budget authority cuts, the Congress may wish it had acted on the previous Presidential rescissions it ignored. Saving \$40.4 billion in prior years would have obviated the need for cuts in fiscal year 1993 budget authority. Perhaps, if the President had a line-item veto between 1984 and 1989 and saved the \$70 billion estimated by the GAO, we would not be looking for \$21 billion in spending cuts. Perhaps, if Congress had not appropriated \$6.3 billion in unauthorized defense spending, Congress would only be looking to cut roughly \$15 billion for fiscal year 1993.

Whether it is \$40 billion or \$70 billion or \$6.3 billion, it is substantial and it could be saved by a President with line-item veto authority.

A President with line-item veto authority could have played an active role in deficit reduction, and could have mitigated some of this fiscal dilemma.

As we continue to face enormous budget deficits and annually search for ways to reduce spending, it seems self-evident that there is a place in our budget process for a President empowered with a line-item veto to provide the needed discipline to eliminate waste.

With our public debt expected to approach \$3.9 trillion this year and our gross domestic product of roughly \$5.7 trillion, it is obvious that our debt may soon surpass our output.

With that in mind, I hope the Senate would consider the following quote by a prescient figure in the "Scottish Enlightenment," Alexander Tytler. He stated:

"A democracy cannot exist as a permanent form of government. It can exist only until a majority of voters discover that they can vote themselves largesse out of the public treasury. From that moment on, the majority always votes for the candidate who promises them the most benefit from the public treasury, with the result being that democracy always collapses over a loose fiscal policy."

If our debt surpasses our output, I fear that our democracy may just collapse over loose fiscal policy.

Our amendment is a small step, a very small step.

I would like to make a couple of additional comments.

I have supported projects that affect my district. I will plead guilty to the charge that in the City of Satan we all find it difficult to do the Lord's work. My colleague from Indiana and I will be charged with hypocrisy because we have supported projects that affect our State.

We are not talking about projects. We are talking about process. Not projects, process.

The process needs to be reformed. The system needs to be reformed. If you are here, you must operate within the system, and that is one reason I admire the courage of my friend from Indiana, because recently statements have been made about things that happen to Senators that support the line-item veto.

Finally, Mr. President, I appreciate the indulgence of my colleagues because I know there are many things that need to be said here. I harbor no illusions, Mr. President, as to the possibility of overriding a vote on, I believe it will be, a point of order on the budget. I do not believe that we have 50 votes, much less 60, and I regret that. I wish it were not the case.

So, I am making the strongest possible recommendations to the President of the United States following this vote, that he go ahead and exercise the line-item veto, exercise it and take it to court. Scholars and lawyers and constitutional lawyers are evenly divided on this issue, remembering that prior to 1974 is basically what we are seeking restoration of. And I think we have reached a situation, nearing a \$4 trillion deficit, with spending out of control, forcing men and women out of the military, many of them minority who had joined the military for a career, that the President should indeed exercise the line-item veto.

This morning's Wall Street Journal article entitled "Just Do It," is, I think, a very, very excellent depiction of the situation. And it says:

"The Coats-McCain proposal would revive a President's power to "rescind," or delete, egregious spending items. That constitutional power has been dormant since 1974, when Congress steamrolled a President weakened by Watergate to eliminate the long-established power to impound funds. A President can still send up a package of pork for rescission, but the money is spent unless Congress votes not to; of course it never does. The Coats-McCain amendment would make the rescission itself automatic; Congress would have to override if it still wanted the most outrageous pork.

"The threat this poses to logrolling-as-usual can be seen in the fanatic opposition it inspires * * *

"Mr. Byrd will argue that every Senator likes pork, which is exactly why the item veto is needed. Like any addict, Senators need to be stopped before they spend again. An item veto puts the President back into the spending game in a way that restores accountability. It's true that an item veto couldn't touch the entitlements, but it at least would give a President more bargaining power * * *.

"President Bush agrees with scholars who say the Constitution already gives him the power to use an item veto, and claims to be looking for the right item to strike. If he is serious, Mr. Bush has a great opportunity now. If he asserts his item-veto power, Congress will be forced to defend its pork in public. The matter would go to the courts, which might side with Congress, but that would leave matters no worse than they are now. Moreover, Mr. Bush would at least have focused public attention on the main problem, congressional spending.

"Mr. Bush's tax-pledge reversal has left him with a credibility problem; the public won't believe his promises unless he shows he's also willing to act. Just do it, Mr. President."

Mr. President, I am not sure that I would have used the language that is there in the Wall Street Journal, and if any of my colleagues find it offensive, I would like to apologize ahead of time for that. My deep and profound apology if this Wall Street Journal article offended any of my colleagues. But I think the situation is serious, Mr. President.

I do not think we are going to win this vote. I hope that we will have ample debate. I will listen with respect and with great and deep and profound respect to the arguments of the distinguished chairman of the Appropriations Committee, the distinguished ranking minority member of the Appropriations Committee, Mr. HATFIELD, and others who will make, I am sure, their arguments, and they will make them clear and in cogent style. I will not be convinced, obviously, but I look forward and will listen with deep respect to their views. I hope that that will continue, and I am sure that that will continue, to characterize this debate.

We need this passed and I think we need it soon. I think it is very, very important not only on the issue of fiscal sanity and budgetary problems, but, Mr. President, as I mentioned earlier, the American people no longer trust their elected representatives to do the right thing. Seventeen percent of the American people approve of Congress. Should that not serve as a wake-up call?

There was a lot of media attention to the wake-up call that was sent to President Bush in New Hampshire. Should the Congress not get a wake-up call that they are sick and tired of this kind of spending of their hard-earned tax dollars, that we need to get the system under control?

Mr. President, I urge my colleagues' full consideration of this amendment. I appreciate the dedicated efforts of 30 of my colleagues who are cosponsors, and especially my friend from Indiana, Mr. COATS.

I yield the floor.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from West Virginia.

Mr. BYRD. Mr. President, I ask unanimous consent that I may be permitted to make several speeches on this subject, either consecutively or at separate times, without any of those speeches being charged against me as a second speech.

The PRESIDING OFFICER. Is there objection?

Mr. COATS. Reserving the right to object, and I will not object, but I wonder if that same approach will be allowed to other Senators who might take the opposite side of Senator BYRD.

Mr. BYRD. Mr. President, I have no objection to that.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, did the distinguished Senator from Indiana wish me to yield to him?

Mr. COATS. Mr. President, I earlier asked the distinguished President pro tempore of the Senate if he wished to go ahead and immediately respond to the remarks of Senator MCCAIN or, given the fact that Senator MCCAIN and I are jointly sponsoring this effort, if he would like me to go forward in a summary manner relative to my support for Senator MCCAIN's effort and the bill which I originally introduced, and then respond to us both jointly. He in-

icated he would be willing to yield a limited amount of time, and that is really all I will need. There may be further debate or questions later, but I do not need to repeat a lot of the things Senator MCCAIN has already said.

Mr. BYRD. Mr. President, how much time would the Senator wish?

Mr. COATS. I would think, Mr. President, 10 minutes or so would be sufficient. I may want to ask for a minute or two to summarize after that.

Mr. BYRD. Mr. President, I ask unanimous consent I may yield to the distinguished Senator from Indiana [Mr. COATS] for not to exceed 15 minutes for the purpose of his making a statement only, not for the purpose of his offering an amendment or making any motion.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. And that I may be protected in my rights to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COATS. Mr. President, I thank the distinguished leader for yielding the time. I will attempt to confine my remarks to the 15 minutes he has generously allocated.

Mr. President, first of all, I want to thank you and commend the coauthor of this effort, Senator MCCAIN from Arizona, for his detailed presentation of a matter which has been before this body on a number of occasions.

Senators should know this is not a new effort. In fact, early in the decade of the 1980's, Senator Armstrong, a Republican from Colorado, combined with Senator Long, a Democrat from Louisiana, and together they almost succeeded in having this body pass a legislative line-item veto, or what is perhaps more accurately called enhanced rescission measure.

Subsequent to that, there have been numerous attempts to offer the line-item veto. In 1989 when I first arrived in the Senate, noticing there were three or four various proposals floating about the body relative to enhanced rescission or line-item veto, we were able to convene a series of meetings by which we rallied around one single piece of legislation. I was designated to lead that effort. I led that effort in offering in 1989 the enhanced rescission amendment which is very close to what we are offering here today. Unfortunately, that did not succeed.

In a subsequent vote—which I offered a year later—we achieved 43 votes but still fell short of the necessary majority to indicate that a majority of this body supports the idea of line-item veto.

It is somewhat of a mystery to me how we are so out of step with what I think a majority of the American people support. Clearly, poll after poll indicates that well over two-thirds of the American people believe that we ought to pass line-item veto authority to the President. They do not see it as undermining the role of Congress but see it as restoring equity and balance between the executive branch and the legislative branch.

Forty-three of our fifty Governors already have line-item veto. In fact, this goes back 131 years when the State of Georgia first enacted line-item veto power. No State, in my understanding, has rescinded that. The executive branch and legislative branch have achieved that balance and they have been able to exercise what

many feel is a very responsible way of governing and spending the taxpayers' dollars through line-item veto check and balance.

I think it is fair to state that the other seven Governors who do not now have line-item veto authority wish they had line-item veto authority.

As Senator MCCAIN indicated, all candidates on both Republican and Democrat tickets for President this year support line-item veto authority except the two candidates that happen to be Members of this particular body. All the others, both Republicans and Democrats, are in support of line-item veto authority.

So it is clear that many people who have examined this, who understand how this process works or does not work in this case, support the concept of line-item veto authority to the President.

Senator MCCAIN described it, and I will not go through all the details as they are already now a part of the RECORD. This enhanced rescission or legislative line-item veto act will restore a balance that was lost in the Budget Act of 1974 which set up a procedure whereby the President was allowed to send rescissions to Congress but those rescissions were of no effect unless Congress affirmatively acted on them.

This simply turns that procedure upside-down and says that the President has the authority on appropriation measures, in addition to one other time when he submits his annual budget, to submit to Congress a series of rescissions, one or more rescissions which will automatically take effect when Congress, within the prescribed time, overturns that or sends a resolution of disapproval back to the President.

So it turns that process upside-down and I think, in doing so, restores a balance that is currently not present in our legislative process.

In response to the argument that this will not solve all the deficit problem—I think both Senator MCCAIN and I and others in support of this answer—yes, that is true, it will not solve all of the deficit problem.

On the other hand, it is a significant tool. And absent any other proposal to solve the deficit problem, absent political will necessary to deal with the deficit, absent a balanced budget amendment to the Constitution which would force us to place our hand on the Bible and raise the other and swear to a balanced budget each time we are sworn into office as many of our State legislators have to do, absent those measures, line-item veto is perhaps the best tool we have available immediately to bring about a decided effect on reduced spending.

As was mentioned before, the General Accounting Office recently issued a report on estimating potential savings under line-item veto. I would like to quote from that. It says:

"If Presidential line-item veto, line-item reduction authority had been applied to all items to which objections were raised in the statement of administration policies during fiscal years 1984 through 1989, spending could have been reduced by amounts ranging from \$7 billion in 1985 to \$17 billion in 1987, for a 6-year total of about \$70 billion. This would have reduced Federal deficits and borrowing by 6.7 percent."

That is not small potatoes. That is big dollars. That is \$70 billion we could use to reduce the deficit or if the majority so chose, \$70 billion which we could apply to what I would consider much more appropriate, much higher priority spending items relative to health and education and a number of other items that this body has discussed over the past couple of years that many say we do not have the money to pay for. It could have been used for those purposes.

I suggest those purposes would have a higher priority than the purposes for which the rescissions requiring reduction of amounts asked for by Congress which many classify as pork barrel have been asked.

The GAO report goes on to state that line-item veto authority would have been applicable to about 40 percent of annual Federal spending during the eighties. The remaining 60 percent, of course, are entitlements or other mandated spending programs to which this would not apply.

Each year during the appropriations process, this institution and all of us, individually, are lampooned, rightly so, for the spending items that come out of this body. A number of groups put out various publications and lists. I have one here called the "1992 Congressional Pig Book Summary." It plays across the front pages of our major newspapers as, after approval or passage of an appropriations measure, the press starts to fine-tooth comb through these and sees these little pork-barrel items that are attached—many times adding up into the several billions of dollars.

It is not my purpose today to stand here and itemize or list this page after page after page of items that I think most Americans would say either are not necessary or certainly in this current budget deficit crisis are not high priority items.

I do not mean to stand here and put my fellow colleagues on the witness stand or highlight their particular appropriation or pork-barrel project that was included in last year's appropriations bills. Because I think what we are dealing with here is a very systemic problem in this institution. We are trying to save ourselves from ourselves by this measure.

All of us have the temptation to carry around in our pocket the list of items that are goodies for our folks back home which, when the appropriate bill comes along, we are able to attach and we hope goes through the process without any scrutiny because we know that if brought to the light of day in debate on the Senate floor they probably would not garner 51 votes or a majority.

I am not saying and I am not trying to cast judgment on any one particular project because I think all of us have some culpability here. What I am trying to do is point to the process which allows us to do this kind of thing and which allows us to attach a small item to an omnibus appropriations measure and then give the President no authority other than to veto the entire measure or accept the entire measure.

Really what we are talking about is simply a procedure whereby items that would never stand the light of day or the heat of debate or garner a majority of votes or otherwise had passed into law by being attached to a bill which the President has little or no choice but to accept in total.

So we are trying to change that procedure and we are trying to give the executive branch an opportunity to say "I still want to pass the entire appropriations bill, because it goes to a number of important programs—defense, veterans affairs, health care, education, and so forth. But I cannot accept it with that particular item or items that I do not think meet national goals or meet the test of majority support."

So this enhanced rescission process is designed to give the President an opportunity to send back a list of items that he does not believe meets those tests. We then have a chance to say yes, they do meet those tests. We have the opportunity to bring those items to the floor and if they receive a majority of support, send them back to the President saying, "No, they do meet the test and have achieved a majority."

That is the way our process works. That is the way it ought to work. It does not work that way in terms of our current appropriations process. And this is what we are attempting to accomplish with this particular measure.

I think we all know how the current system works. I think we know that it has not been effective. I think we know the American people send us here with the idea of justifying those projects which we think are important to our particular States or our particular areas.

We have a chance today to enact legislation supported by a clear, decisive majority of the American people, supported by 43 out of our 50 Governors. It has been tested for more than 131 years in the legislative process, supported by all candidates for President except for the two candidates from this particular institution.

I hope our colleagues, even though the vote may ultimately be one of procedure in terms of waiver of the Budget Act, I hope our colleagues will understand that the vote on the procedural matter is really the only vote we are going to have. Therefore, their declaration of support or opposition to line-item veto will be determined on the basis of this procedural vote which will be taken in this Chamber at some point in the future.

Again, I want to repeat that Senator MCCAIN and I have no intention whatsoever of holding up the legislative process that the Senate is currently undertaking. There is no reason why the bill before us cannot be voted on and passed or at least receive the will of the majority today. There is no reason that this needs to be delayed.

This issue has been debated over and over and over. I think Members of the body pretty much are aware of where they stand and what the arguments are on both sides. We certainly are prepared to go to that vote on a fairly expeditious timetable.

We have requests from a few Members of the body in support of this effort for brief expressions of support for this particular legislation. But we have no intention of offering this for any other purpose simply than to bring the issue to the floor. As I said, we would prefer to have it come through committee, be brought to this floor for debate, and have a clean up or down, 51 vote wins effort. That is not possible. We have attempted to do this in a number of different ways without success, so we are reduced to offering this as an amendment.

Mr. President, I want to thank again the President pro tempore for yielding time to me to explain my position on this. It is a matter that I think is of importance to the Nation. It has the support of this President, as it has had from previous Presidents. I believe it is a fair compromise.

I ask unanimous consent to print in the RECORD a letter Senator McCAIN and I received from the President indicating his support for this.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE WHITE HOUSE,
Washington, February 26, 1992.

Hon. JOHN McCAIN,
U.S. Senate, Washington, DC.

DEAR JOHN: I strongly support the efforts of you and Senator Coats to provide me and future Presidents with a form of legislative line-item veto authority. In my State of the Union Address, I once again urged your colleagues in the Senate and the House to give me what 43 Governors currently enjoy—the line-item veto.

Your approach is a fair compromise. It allows me to eliminate or reduce items I believe are wasteful of taxpayers' dollars, but it also gives Congress the opportunity to overturn these rescissions or reductions.

Billions upon billions of dollars have been wasted over the years on programs of a parochial nature with dubious value to the American taxpayer. The line-item veto approach, whether instituted through the Constitutional amendment I have previously proposed or through your statutory initiative, is the best way to prevent future wasteful spending and to rein in deficit spending.

I appreciate and fully support your amendment.

Sincerely,

GEORGE BUSH.

Mr. COATS. Mr. President, I will quote from that by saying:

"Your approach is a fair compromise. It allows me to eliminate or reduce items I believe are wasteful of taxpayers' dollars, but it also gives Congress the opportunity to overturn these rescissions or reductions."

I think it is a fair balance. I think it remedies an imbalance that currently exists. I think it saves us from ourselves and it certainly saves us from a great deal of embarrassment as once again this year the press and the public will highlight items of spending passed by this body not by an up-or-down vote on a particular item but passed by this body because it is attached to an appropriations bill and the President having no choice but to veto or accept the whole bill. I hope my colleagues will see this vote coming up in those terms and will obviously support it.

Mr. President, I know my time has expired. If I could inquire of the Chair, parliamentary inquiry. I need to understand the President pro tempore's unanimous-consent request relative to a request for the yeas and nays on this particular amendment.

The PRESIDING OFFICER. Any Senator can request the yeas and nays when he has the floor in his own right.

Mr. COATS. Mr. President, I would therefore request the yeas and nays.

Mr. BYRD. The Senator does not have the floor in his own right.

The PRESIDING OFFICER. That is correct, the Senator received consent to speak only.

Mr. COATS. That was my initial request to the Chair. That is the clarification I was asking.

The PRESIDING OFFICER (Mr. LIEBERMAN). The Senator's time has expired.

Mr. BYRD. Mr. President, he wants to get the yeas and nays on his amendment so that he can offer an amendment to it, and that will qualify him to offer an amendment to it. But under the consent by which I yielded to the Senator, part of that consent request is he cannot offer an amendment or make any motion. But if he wishes to ask for the yeas and nays, he may do that.

Mr. COATS. Mr. President, I thank the President pro tempore. I have no intention of offering a second degree to this amendment or offering a motion to this. I would, however, accept the Senator's offer to ask at this time for the yeas and nays on this amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. LEAHY. Will the Senator from West Virginia yield for 1 minute to me?

Mr. BYRD. I yield 1 minute to the Senator from Vermont under the same circumstances by which I yielded to the Senator from Indiana.

Mr. LEAHY. Mr. President, just for the information of Senators, as manager of this bill, I have been asked by a number of Senators the state of play. Rescinding from the one issue of the pending amendment, on which the yeas and nays have just been ordered, I believe the various parties have come together on some compromise amendments. This bill could be passed in a relatively short time, rescinding from this issue.

I hope if there are other amendments I am not aware of to the bill that people will tell me about it. I do not wish to detract from anybody's debate on the pending issue, but the basic National Cooperative Research Act, the Leahy-Thurmond Act, I think is in a position where it can pass rather rapidly once we get back on it.

I thank the distinguished Senator from West Virginia.

Mr. THURMOND. Mr. President, I would like to suggest to the distinguished manager of the bill if he can announce if anybody has amendments they ought to come to the floor and offer them.

Mr. LEAHY. If the Senator from West Virginia will yield further under the same conditions so I can respond to the Senator from South Carolina, we have this one pending amendment. But I agree with the Senator from South Carolina. I strongly urge if Senators have some other amendments, they either notify, on that side of the aisle, the Senator from South Carolina, this side of the aisle notify me, so we can see if either they could be agreed to or we could be in a position to ultimately offer time agreements because

I think the Senator from South Carolina and I are ready to wrap this up.

So I urge Senators if they have something we are not aware of, please come forward and let us know. While this other debate is going on, we can try and work it out.

Mr. THURMOND. We will try and get a hot line run over here, if you all can do the same. I understand the distinguished chairman of the Judiciary Committee, Mr. BIDEN, and the administration have gotten together on an amendment, and I presume Chairman BIDEN will come in and offer that amendment.

Mr. LEAHY. If the Senator will yield further, with the same provisions, that is my understanding. My understanding is that the one principal amendment relative to the National Cooperative Research Act that was in doubt has been worked out and could be disposed of very, very quickly in a way acceptable both to Senator THURMOND and myself.

Mr. THURMOND. Mr. President, I believe that the amendment I spoke about was between Senator BIDEN and the administration and Senator BROWN. The three, I think, have agreed.

Mr. LEAHY. In fact, in cooperation with Senator BIDEN, Senator BROWN, and the administration, it has been worked out.

I thank the Senator from West Virginia.

Mr. BYRD. I thank the Senator.

Mr. President, I wish to thank the distinguished Senator from Arizona [Mr. MCCAIN] for his courtesy in writing a letter to me to inform me it was his plan to proceed with an amendment of this nature today or tomorrow. He may have written to other Senators as well, but I thank him for writing that letter to me. It was very kind of him, thoughtful of him, and generous, and I deeply appreciate it.

Mr. President, I rise today to address the Senate on a matter of great importance to the Senate and the House of Representatives and to the American people. I intend to discuss nothing less than the evolution of representative democracy, the American constitutional system of checks and balances and separation of powers, and the growing threat to that system by proposals to place into the hands of the President—this President, any future President of any party—an item veto or enhanced rescission powers—in other words, the power over the purse.

For the sake of convenience, my references in today's speech, today's first speech to the item veto are meant to include enhanced rescission powers, unless otherwise stated. I shall be speaking quite at length, and inasmuch as I have spent a good many weeks in preparing these remarks, I shall make them in separate speeches. Although they may be given consecutively, they will appear in the RECORD as separate speeches.

In another speech, which I expect to give before the day is over, I will deal more at length with the subject of enhanced rescission powers.

After a decade of triple-digit deficits that have led to a tripling of the national debt, the item veto and enhanced rescission powers are being pushed as process reforms, purportedly to help us to get a handle on the bloated deficits that have us drowning in a sea of red ink.

The item veto is, in reality, a quack medicine which would be better denominated as snake oil.

Mr. President, in saying this, I do not cast any aspersions or reflections on the Senators who have introduced this amendment, or do I say this pejoratively with respect to any Senator who supports this amendment. There is an honest difference of opinion here. And so I want to stipulate for the record that I do not mean to cast any reflection on any Senator, on his integrity, or on his good intentions, or on his dedication, his conscientious belief. But that is what it amounts to, in my view—snake oil.

It is being used to fool the public into thinking that a line-item veto would really work as a painless way to cure the disease of spiraling deficits.

Mr. Reagan made several comments, even speeches on the line-item veto. He was a great promoter of the idea. And there have been other Presidents, as well, who have done likewise. President Bush also supports the line-item veto. Reference has been made to some of the Democratic candidates for President. Mr. President, the message applies to them as well.

If any one of those Democratic candidates who is out on the hustings at this time promoting the line-item veto becomes President, I will oppose him just as strongly as I oppose President Bush in respect to the line-item veto. They simply do not know what they are talking about. They have not made as much of a study of this as some of us have. They have not read the Constitution lately, apparently. And so they certainly will not endear themselves to this Democrat by advocating the line-item veto.

And I hope that Mr. Clinton, and Mr. Tsongas, and Mr. Brown get the message. If any one of them ever does become President, and I am still able to stand on my feet here, I will tell them it is snake oil. Just because they are Democrats does not make any difference to me on this subject.

Let me say again it is being used to fool the public. They are using this to fool the public into thinking that a line-item veto would really work as a painless way to cure the disease of spiraling deficits. Politicians have seized upon it as a convenient expedient to avoid making the hard choices and painful decisions required to effectively bring the deficits down.

Authority for the President of the United States to veto "items" in appropriation bills was first proposed at the Federal level by Ulysses S. Grant in 1873. Three years later, in 1876, the first resolution to amend the Constitution to give the President the item veto was introduced in the House of Representatives by Representative Charles James Faulkner of West Virginia. Since then, over two hundred resolutions have been introduced to achieve this end, and more than a dozen presidents have promoted such a veto, the most recent being the current occupant of the White House, George Bush, whose predecessor, Ronald Reagan, was a vigorous advocate.

I am aware that there are many sincere advocates who conscientiously and seriously believe that the item veto will work and that, although the idea has been around for more than a hundred years, it is at last an idea whose time has come, we think. The truth is, it is not the panacea that the budget medicinemen proclaim it to be, and it will not work to control the deficit hemorrhage. What it

will do, however, and what it is meant to do, is that it will shift the power over the purse from the legislative branch to the executive and thus destroy the delicate balance crafted by the framers of our constitutional system over 200 years ago. I am opposed to the item veto in all of its forms, and I shall at some length, explain why.

The power over the purse is the taproot of the tree of Anglo-American liberty. This power is expressly vested in the legislative branch by the Constitution of the United States, not by the Wall Street Journal and editorials from which were alluded to earlier by the distinguished Senator from Arizona [Mr. MCCAIN]; not by the pamphlet that was published by the General Accounting Office to which references have been made, but by the Constitution of the United States.

To better understand how the legislative branch came to be vested with the power over the purse, it seems to me that one should examine not only the roots of the taxing and spending power but also the seed and the soil from which the roots sprang and the climate in which the tree of Anglo-American liberty grew into its full flowering. Only by understanding the historical background of the Constitutional liberties which we Americans so dearly prize can we fully appreciate that the legislative control of the purse is the central pillar—the central pillar—upon which the Constitutional temple of checks and balances and separation of powers rests, and that if the pillar is shaken, the temple will fall. It is as central to the fundamental liberty of the people as is the principle of habeas corpus, although its genesis and *raison d'être* are not generally well understood. Therefore, before focusing on the power over the purse as the central strand in the whole cloth of Anglo-American liberty, let us engage in a kaleidoscopic viewing of the larger mosaic as it was spun on the loom of time. Hence, I shall first touch upon the evolvment of the English nation out of the early Anglo-Saxon kingdoms and subkingdoms and then examine the development of the English Parliament; then the relationship of our own written Constitution and Bill of Rights to the generally unwritten constitution of England; then, the parallelism of the powers and immunities of Parliament and Congress; and lastly, the establishment of power over the purse by Parliament, the vesting of the power in the Congress by the Constitution, and the centrality of power over the purse to the overall scheme of Constitutional American liberty.

Congress' control over the public purse has had a long and troubled history. Its beginnings are imbedded in the English experience, stretching backward into the middle ages and beyond. It did not have its genesis at the Constitutional convention, as some may think, but, rather, like so many other elements contained in the American Constitution, it was largely the product of our early colonial and State governments and hundreds of years of British history predating the earliest settlements in the New World.

Notwithstanding, therefore, William Ewart Gladstone's observation that the American Constitution "is the most wonderful work ever struck off at a given time by the brain and purpose of man,"—although there is some question with regard to that quotation—the Constitution was, in fact, not wholly an original creation of the Framers who met in Philadelphia in 1787. It "does not stand in

historical isolation, free of antecedents," as one historian has noted, but "rests upon very old principles—principles laboriously worked out by long ages of constitutional struggle." The fact is, Gladstone himself, contrary to his quote taken out of context, recognized the Constitution's evolutionary development.

British subjects outnumbered all other immigrants to the colonies under British dominion. They are trying to change American history these days but it cannot be changed. The very first sentence of Muzzey's history, which I studied in 1929, 1928, 1930—the very first sentence—says: "America is the child of Europe." America is the child of Europe.

They brought with them—those early settlers from England—the English language, the common law of England, and the traditions of British customs, rights, and liberties. The British system of constitutional government, safeguarded by a House of Commons elected by the people, was well established when the first colonial charters were granted to Virginia and New England. It was a system that had developed through centuries of struggle, during which many of the liberties and rights of Englishmen were concessions wrung—sometimes at the point of the sword—from kings originally seized of all authority and who ruled as by divine right.

The Constitutional framers were well aware of the ancient landmarks of the unwritten English constitution. Moreover, they were all intimately acquainted with the early colonial governments and the new state constitutions which had been lately established following the Declaration of Independence and which had been copied from the English model, with adaptations appropriate to local conditions. Let us trace a few of the Anglo-Saxon and later English footprints that left their indelible imprint on our own constitutional system.

Roman sway in Britain left no residue of influence, but, with the collapse of the Western Roman empire, the invasions by Angles, Saxons, and Jutes in the fifth century set the stage for Anglo-Saxon dominance over the native Britons and the establishment of numerous petty tribal units, kingdoms and subkingdoms, from which eventually emerged the seven great kingdoms of the Anglo-Saxon heptarchy: Northumbria, East Anglia, Kent, Mercia, Essex (East Saxons), Sussex (South Saxons), and Wessex (West Saxons). At various times, one or the other of these kingdoms would gain a more or less headship, with Northumbria supreme in 618; Mercia, in 757; and, at last, Wessex in 825, during the reign of Egbert, the supremacy of which was to last until Edward the Elder became ruler of all England. The result of these efforts to annex other kingdoms and subkingdoms into one England was but the perfecting of a unity already existing somewhat, the different tribes and realms having from the first been unified against Britons, even while warring amongst themselves for supremacy. Into a territory thus divided among strong and ambitious kings there came the great unifying force of Christianity. The rise of Wessex, therefore, foreordained the consolidation of all England under one kingship, that of Edward the Elder (899–924), son of Alfred the Great (871–899).

The Anglo-Saxon kings were aided in their governance by the witenagemot, or witan, which was a national council consisting of

ealdormen (the chief magistrates of the shires), thegns, bishops, and nobles. These were the wise and great of the realm. This council acted as a court for the trial of great men; it chose the king, usually from the royal family; it assisted in making important laws for the realm. It shared in the king's responsibility for many public acts, such as the imposition of taxes and customs, defense measures, prosecution of traitors, and ecclesiastical patronage. A strong king dominated the witan; a weak king bowed before the magnates who sat about him. No king could afford to ignore the witan. It kept alive the principle that the king must govern with advice.

William of Normandy defeated Harold II, son of Godwine, at the battle of Hastings on October 14, 1066, and, with the coming of the Normans, feudalism was brought to England. The Anglo-Saxon witenagemot, or king's council, became the *magnum concilium*, or Great Council, under the Normans. Membership was now based upon landholding, not upon the criterion of personal importance, as in the Anglo-Saxon witan. The Great Council met about three times a year, and all the tenants-in-chief, called barons, were expected to attend, including abbots and bishops, who were legally barons for feudal purposes. The total number expected to be present was about 500. There was a smaller council in constant attendance upon the king, made up of the permanent officials of the king's household—such as the treasurer, the chamberlain, the chancellor, or king's secretary, and the justiciar, who was the king's chief administrative and legal assistant—and some of the tenants-in-chief. This small council was known as the *curia regis*.

As progressive steps were unfolding in the administration of the affairs of the realm, the idea of representative assemblies was also slowly taking form. The seedling Anglo-Saxon gemots and folk-moots, the witan, the Great Council, the *curia regis*—all these had laid the foundation for the growth of future parliaments.

Alfred, King of Wessex (871–899), had, for example, declared in the promulgation of a body of his laws, "I then, Alfred, King of the West Saxons, showed these to all my Witan, and they then said that it liked them well so to hold them." Edmund (939–946) began his laws by declaring them to have been established with the counsel of his witan, ecclesiastical and lay. Edgar the Peaceful (959–975) ordained "with the counsel of his Witan." Ethelred II (978–1016), in the preamble of the code of 1008, stated, "This is the ordinance which the King of the English, with his Witan, both clerical and lay, have chosen and advised."

From the time of Egbert (802–839) to Edward the Confessor (1043–1066), the national witenagemot had wielded great powers. It elected kings, and, at times, it deposed them. It advised and assisted the king in the levying of revenues, and in the raising of military forces, and it possessed the functions of the highest court. It also advised and consented in the making of laws.

The national witenagemot survived the Norman Conquest, becoming the *magnum concilium* under the Norman kings, and the witan became the *curia regis*, the court of the king's vassals. In legal theory, what the witenagemot was in the days of King Edward the Confessor, it remained in the days of William the Conqueror. In practice, however, under feudalism and the vigorous con-

trol of William and his immediate successors, the influence of the national assembly was minimized.

With the accession of Henry II (1154–1189), the first of 14 Plantagenet kings, the Great Council experienced a revival of its strength and influence. Its right to a share in making the laws was regained. All the king's tenants-in-chief had a right to be present, for example, when special taxation was needed.

With the introduction of elected representatives into the national assembly, the parliament began to take form. In 1213, King John held a council at St. Albans which was attended not only by the clergy and lords but also by four knights chosen in each county. In 1254, Queen Eleanor and the Earl of Cornwall, acting as regents during the absence of Henry III in Gascony, directed the sheriffs to cause attendance, before the king's council at Westminster, of two knights from each county chosen by the men of the county for that purpose. In 1261, during the Baron's War, the confederate barons summoned three knights from each county to St. Albans, but Henry ordered the knights to meet him instead, at Windsor. Following the battle of Lewes on May 14, 1264, the French-born Simon de Montfort, in the king's name, directed the sheriffs to bring two knights from each shire, two citizens from each city, and two burgesses from each borough to sit in a parliament—the word comes from the French, *parler*: to speak or talk—in 1265.

Edward I (1272–1307) has been called the "father of Parliament." In 1295, he convened the "Model Parliament," at Westminster, to which he summoned the lay and spiritual lords, two knights from each shire, two citizens from each city, two burgesses from each borough, the prior of each cathedral, the archdeacons of each diocese, and elected proctors for the cathedral and parochial clergy. The King wanted money, so he called all sections of society who were in a position to supply it—or, just as important, to withhold it unless their grievances were redressed by the King.

The Model Parliament sat in three separate houses, each granting a different proportional tax—a recognition of the principle that a tax required the consent of those who were expected to pay it. But the clergy had long voted taxes in their own ecclesiastical assemblies, and they had always been represented in the national councils by bishops and other church officials. Therefore, although invited to each Parliament succeeding that of 1295, their attendance was reluctant and irregular and ceased altogether in the next century.

Hence, Parliament, which had its beginnings in the Anglo-Saxon witenagemot, later in the deliberations of the king's magnum concilium, or Great Council, and the Curia Regis, or King's Council, took its essential form in the reign of Edward I, although its structure remained fluid for a long time. Edward I who, as I say, ruled from 1272 to 1307. Under his hand, it became a more comprehensive body, largely because of the inclusion of new representative elements, such as the rural and town middle class.

You hear a lot about the middle class in these latter days. Well, Parliament became a more comprehensive body during the time of Edward I because of the inclusion of new representative developments such as the rural and town middle class.

It remained for the 14th century to witness the emergence of a Parliament legally defined and constituted. Edward III, who reigned from 1327 to 1377—50 years—regularly summoned the knights and burgesses to Parliament in every one of the 50 years of his reign, and it was during the Parliaments of the 1330's that the knights and burgesses united to form what was to become the Commons, but not yet called the "House of Commons"—that title would take nearly another hundred years to develop. The Commons and Lords still met in full sessions, but they separated to debate and decide most issues among themselves—the Lords staying in the Parliament chamber, the knights and burgesses in the precincts of Westminster Abbey, and by 1463, the Commons had their own clerk. In 1377, the last year of Edward III's reign, Sir Thomas Hungerford was elected the first Speaker, so titled. He was the man who spoke to the King on behalf of the Commons, and had the absolute right to do so. Slowly, the council in Parliament was to become the House of Lords when it came to be composed only of a fixed hereditary element of lay and ecclesiastical lords, and the royal officials of the council withdrew and no longer participated in its work.

Keep in mind that Parliament, in its final structure, was not the result of design and careful planning or deliberate organization; instead, it was the product of chance, trial and experience, compromise and struggle, over a long period of centuries—a long period of centuries.

Mr. President, we have now traced the British Parliament from its earliest rudimentary Anglo-Saxon and Norman beginnings to its 14th century bicameral form, of Members in Commons, elected by the people, and Lords appointed by the king. Transplanted to the American colonies, the bicameral legislative branch would take the shape of representative assemblies elected by the people, and upper houses, or councils, appointed by Royal governors. Under the American Constitution—which I would suggest we should read more often, and I would also suggest that with each reading we find something we did not think we saw before. It is very much like reading Shakespeare, a great deal like reading the Bible. You always seem to find something new. Under the American Constitution, Article I, section 1, it would take the bicameral form of a House of Representatives, elected by the people, and a Senate appointed by the state legislatures.

I wish now to mention some other important developments in the course of British history which served as guideposts in the formation of the American Constitution. It is wise to remember that our own Constitution was not a mere imitation of the constitution of the mother land; it was a historical development from the British model. Many of the principles underlying the British constitution were the result of lessons learned through centuries of strife and conflict between English monarchs and the people they ruled. The rights and liberties and immunities of Englishmen had been established by men who, like the authors of our Declaration of Independence, were willing to risk their lives, their fortunes, and their sacred honor for those rights. The U.S. Constitution was, then, in many ways, built upon a foundation from which the colonies themselves had never departed but had only adjusted to local needs and

conditions and social forces that were at play in American colonial life.

We often refer to the English constitution as an unwritten constitution, unlike the American Constitution which, together with the American Bill of Rights and subsequent amendments, consists of a single written instrument comprising only a few pages. However, the English constitution does include many written documents such as Magna Carta (1215), the Petition of Right (1628), and the English Bill of Rights (1689), all of which helped influence the formulation and contents of our own Constitution. There were various other English charters, court decisions, and statutes which were components of the English constitutional matrix and which were reflected in our own organic law, framed at Philadelphia in 1787. Among these great English pillars of liberty, for example, was the writ of habeas corpus: "You shall have the body." Habeas corpus is perhaps the most celebrated of Anglo-American judicial procedures. It has been called the "Great Writ of Liberty" and hailed as a crucial bulwark of a free society. Justice Felix Frankfurter termed it "the basic safeguard of freedom in the Anglo-American world."

The name "habeas corpus" derives from the opening words of the ancient English common law writ that commanded the recipient to "have the body" of the prisoner present at the court, there to be subject to such disposition as the court might order. In *Darnel's Case* (1627), during the struggle for parliamentary supremacy, if a custodian's return to a writ of habeas corpus asserted that the prisoner was held by "special command" of the king, the court accepted this as sufficient justification. This case precipitated three House of Commons resolutions and the Petition of Right, to which Charles I (1625-1649) gave his assent, declaring habeas corpus available to examine the underlying cause of a detention and, if no legitimate cause be shown, to order the prisoner released. But even these actions did not resolve the matter. Finally, under Charles II (1660-1685), the Habeas Corpus Act of 1679 guaranteed that no British subject should be imprisoned without being speedily brought to trial, and establish habeas corpus as an effective remedy to examine the sufficiency of the actual cause for holding a prisoner.

Although the Act did not extend to the American colonies, the principle that the sovereign had to show just cause for detention of an individual was carried across the Atlantic to the colonies and was implicitly incorporated in the federal Constitution's Article I provision prohibiting suspension of the Writ of Habeas Corpus "unless when in Cases of Rebellion or Invasion the public Safety may require it."

Another English statute that made its imprint on our federal Constitution was the Act of Settlement. Until the late seventeenth century, royal judges held their offices "during the king's good pleasure." Under the Act of Settlement of 1701, judges were to hold office for life instead of at the king's pleasure and could be removed only as a result of charges of misconduct proved in Parliament. This was a crucial step in insuring the independence of the American judiciary. The Constitutional Convention of 1787 adopted the phrase "during good behavior", in Article III, to define the tenure of federal judges in America.

William the Conqueror had brought with him from Normandy the sworn inquest, the forerunner of our own grand jury to which the Fifth Amendment of the Constitution refers.

Under Henry I (1100–1135), the small council, or *curia regis*, when it sat with a staff of clerks for financial business, came to be called the exchequer court, and it audited the returns of the sheriffs, who collected the king's revenues in feudal incidents, dues, fines, and taxes. It was at about this same time that the system of itinerant justices—royal justices travelling on circuit—had its beginnings. These itinerant justices travelled out into the counties from the *curia regis* to the shire courts to do royal judicial tasks.

Henry II (1154–1189) created a new court, the Court of Common Pleas, a special group of five barons from the *curia regis*, who were to sit permanently at Westminster to transact judicial business other than that which was under the jurisdiction of the exchequer court. Henry II also increased the use of itinerant justices by dividing England into four circuits in 1179, each served by five or six judges who, as they moved about England, began to develop a national common law which became a uniform law, based upon precedents, for all England.

According to the Assize of Clarendon in 1166, Henry II ordered the formation of an accusing or presenting jury to be present at each shire court to meet the king's itinerant justices. This was a jury of "twelve of the more competent men of a hundred and by four of the more competent men of each vill" who were to be put "on oath to reply truthfully" about any man in their hundred or vill "accused or publicly suspected" of being a murderer, robber, or thief. This accusing jury—like the sworn inquest under William I—was the antecedent of our own modern grand jury.

Like the presentment jury, the trial jury had Continental origins, and by 1164, there was a clear beginning of the use of petit juries in crown proceedings. It was mostly used in the reign of Henry II (1154–1189) to determine land claims and claims involving other real property. By 1275, in the reign of Edward I, it was established that the petit jury of twelve neighbors would try the guilt of an accused. Five centuries later, jury trial in Federal criminal cases was required by article III of the United States Constitution, and was repeated in the sixth amendment of the United States Constitution. The seventh amendment provided for a jury trial in civil matters.

The fountainhead of English liberties was Magna Carta, signed by King John on June 15, 1215, in the meadow of Runnymede on the banks of the Thames, and during the next two hundred years the Magna Carta was reconfirmed 44 times. It is one of the enduring symbols of limited government and the rule of law. Consisting of 63 clauses, it proclaimed no abstract principles but simply redressed wrongs. Simple and direct, it was the language of practical men. Henceforth, no freeman was to be "arrested, imprisoned, dispossessed, outlawed, exiled, or in any way deprived of his standing * * * except by the lawful judgment of his equals and according to the law of the land." The phrase "law of the land" would become the phrase "due process of law" in later England, and in our own Bill of Rights. Other provisions also anticipated principles that would likewise be reflected five centuries later in the U.S. Con-

stitution. Several chapters (28, 29, 30, 31) relate to abuses by royal officials in the requisitioning of private property and thus are the remote ancestor of the requirement of "just compensation" in the fifth amendment in our own Bill of Rights. Other chapters (20, 21, 22) require that fines be "in proportion to the seriousness" of the offense and that fines not be so heavy as to jeopardize one's ability to make a living—thus planting the seed of the "excessive fines" prohibition in the American Bill of Rights' eighth amendment.

In 1368, over 400 years before *Marbury v. Madison* (1803), a statute of Edward III commanded that Magna Carta "be holden and kept in all Points; and if there be any Statute made to the contrary, it shall be holden for none." So, here was an early germ of the principle contained in the supremacy clause of the Federal Constitution's article VI.

Magna Carta was, therefore, irrevocably woven into the fabric of American constitutionalism, both by contributing specific concepts such as "law of the land" (due process) and by being the ultimate symbol of constitutional government under a rule of law.

King John had been forced by his recalcitrant barons to sign the Great Charter. The principle that the king was bound by what the barons considered to be a feudal contract became expanded into the broader idea that in some things any king is bound by law. He must respect the rights of his subjects, and if he violates those rights, he may be compelled to observe them.

We have already observed several elements of our own constitution and system of jurisprudence that have their roots in English history. Let us now examine the English beginnings of some of the liberties and immunities that are secured to us by the American Bill of Rights.

For instance, the fifth amendment establishes the right against self-incrimination. In 1641, during the reign of Charles I, who lost his head on January 30, 1649, the Long Parliament, dominated by the Puritan party and common lawyers, prohibited ecclesiastical authorities from administering any oath obliging one "to confess or to accuse himself of any crime." The rudimentary idea of a right against self-incrimination was lodged in the imperishable opinions of Chief Justice Edward Coke, with inferences drawn from Magna Carta, and the right became entrenched in English jurisprudence, even under the judicial tyrants of the Restoration. In 1776, the Virginia Constitution and Declaration of Rights provided that, in criminal prosecutions the accused party cannot "be compelled to give evidence against himself." Every State (eight, including Vermont) that prefaced its constitution with a bill of rights imitated Virginia's phrasing, thus paving the way for inclusion of the language in the fifth amendment, "No person * * * shall be compelled in any criminal case to be a witness against himself."

The "due process" clause of the fifth amendment had centuries-old antecedents, as I have earlier stated, going back to the Magna Carta's "law of the land." A 1354 act of Parliament paraphrased Magna Carta's chapter 39 as follows: "No man * * * shall be put out of Land or Tenement, nor taken, nor imprisoned, nor disinherited, nor put to death, without being brought in Answer by due Process of Law." This is said to have been the first reference to "due process" in English legal history. Due process in the 1354 en-

actment meant an appropriate common law writ. In mid-seventeenth century England, "due process" and the "law of the land" referred to procedural due process in both civil and criminal cases. The Petition of Right (1628) played no favorites with the two terms, demanding "that freemen be imprisoned or detained only by the law of the land, or by due process of law and not by the King's special command, without any charge." Generally, however, the "law of the land" usage was the dominant one. The usage was similar in the American colonies, where, in deference to Magna Carta, the "law of the land" formulation was the most common. We are told that probably the first American reference to "due process of law" was in a 1692 Massachusetts act endorsing chapter 29 of Magna Carta. Four States, in ratifying the Constitution, recommended a comprehensive bill of rights and urged versions of chapter 29 of Magna Carta, although only one, New York, referred to "due process of law" rather than the Magna Carta's "law of the land." The "due process" clause of the Constitution reflected James Madison's preference at the convention.

The fourth amendment prohibition against "unreasonable searches and seizures" was the marriage of an ancient British right and new, colonial interpretations that vastly extended its meaning. As early as 1589, Robert Beale charged that the general search warrants used by the High Commission against Puritans violated Magna Carta (1215). But neither Britain nor the separate American colonial and State governments immediately abolished general searches. It appears that the confinement of all searches and seizures by warrant to the particular place, persons, and objects enumerated, derives from Massachusetts, where a cluster of Massachusetts statutes and court decisions from 1756 to 1766, in culmination of a century-long process, uniformly restrained searches and seizures to the person or location designated in the warrant. The specificity of the fourth amendment was thus a natural outgrowth of these landmarks of earlier experience from the British and from the American colonial scene.

The first amendment right of the people "to petition the Government for a redress of grievances" was recognized in the Magna Carta in 1215 and was well established in English law hundreds of years before the American Revolution. The King would summon Parliament to meet and supply funds for his needs and purposes, and Parliament developed the habit of petitioning the King for a redress of grievances as a condition for supplying the money.

Mr. President, therein lies a deep and abiding principle in support of the power of the purses residing in the hands of the peoples' representatives in the legislative branch. Let me say it again. The King would summon Parliament to meet and supply funds for his needs and purposes, and Parliament developed the habit of petitioning the King for a redress of grievances as a condition for supplying the money that he wanted and needed.

The English Bill of Rights in 1689 explicitly affirmed "the right of the subjects to petition the King."

The third amendment of the Constitution derives in part from the English Petition of Right (1628), which complained that "great companies of soldiers and mariners have been dispersed into divers counties of the realm, and the inhabitants against their wills have

been compelled to receive them into their houses." The Petition, drawn up by Parliament, requested that the King "remove the said soldiers and mariners, and that your people may not be so burdened in time to come." The Constitution's third amendment, in similar language, states: "No Soldier shall, in time of peace be quartered in any house, without the consent of the owner, nor in time of war, but in a manner to be prescribed by law."

The sixth amendment provides that "in all criminal prosecutions, the accused shall enjoy the right to a speedy trial." The origin of the right can be traced back at least to Magna Carta in 1215, and even earlier to the Assize of Clarendon in 1166 during the reign of Henry II.

Mr. President, it is not necessary in this context to cite further instances in which the American Bill of Rights can be traced back to British ancestral roots in order to prove the connection. It has been convincingly illustrated by the examples I have brought forward.

I have also earlier traced the British Parliament's growth from frail roots buried in the hoary past. The long struggle by which the British Parliament established its prerogatives, its powers, and its ascendancy over the crown—its ascendancy over the crown—produced an impactful stamp upon our own legislative branch which I wish now to review.

The constitutional framers were acutely aware of this slow and tortuous path which Parliament had traveled upward through the century in the pursuit and protection of its rights and powers. It will be instructive to view some of the chief points wherein the U.S. Congress' rights and powers are related to those of Parliament which were gained through trial and struggle, and we cannot do better than to begin with the origin of bills.

In Anglo-Saxon times, and under the Norman and early Plantagenet kings, the sovereign placed his legislative proposals before the witan, or council, for advice and approval. As the centuries passed, the Parliament slowly evolved, and its earliest functions were primarily judicial. In time, however, the judicial character of Parliament became less important, although the House of Lords still remained the highest court in the land. With the decline of its judicial functions, there came a corresponding increase in its legislative functions, and by the fourteenth century, nearly all legislation resulted from petitions submitted by Parliament to the king. If the king approved the petitions, he would give them the force of statutes, but difficulties were early experienced because the laws that were placed on the roll as acts of Parliament often differed materially from the petitions that Parliament had initiated. The King and his ministers had obviously deviated from, and altered, the petitions, so that the resulting statutes bore but little resemblance to the original petitions. Parliament took umbrage at such abuses, and, in answer to its complaints, Henry V, in 1414, proclaimed that "nothing be enacted to the petitions of his Commons that be contrary of their asking whereby they should be bound without their assent." Under his predecessor, Henry VI, who ruled from 1399 to 1413, Parliament had begun to substitute bills for petitions. The bill contained the statute in the precise form in which it was to be approved, and when it was presented to the King, nei-

ther he nor his servants could make changes in drafting the statute because it was already drafted in the bill. The King could, of course, refuse his assent to the entire bill but he could not change it from its original form. The 1787 convention in Philadelphia was not unmindful of these events—this English history was fresh in the minds of our forebears—as the very first sentence of Article I will attest. Therein the framers vested “all legislative powers” in the Congress, and they also required in article I that every bill, before it becomes a statutory law, must be presented to the President for his approval or rejection in its entirety. Those persons and groups who today advocate that the President be given an item veto or enhanced rescission powers should be reminded of the English roots, now five hundred years past, of the constitutional provisions which they seek to change.

Toward the close of Edward III's reign, Parliament developed an effective weapon for its use in controlling the King's ministers: the weapon of impeachment. The House of Commons, in the “Good Parliament” of 1376, moved against John of Gaunt's political machine by impeaching Richard Lyons, a customs officer and others who had used their offices for illegal purposes. This was the first instance in which the impeachment weapon would be used but it would not be the last, as witness the case of Francis Bacon, the Lord Chancellor, who was impeached in 1621 for accepting bribes.

The impeachment process was a criminal trial. The House of Commons acted as an accusing jury and brought ministers and other servants of the King before the House of Lords for the trial of serious offenses such as treason and bribery. The judicial power, which at one time lodged in the whole Parliament, was declared in 1399, at the suggestion of the Commons themselves, to reside in the Lords only. The House of Lords, therefore, had always retained the judicial functions of the old Great Council, and if the Lords found the accused guilty of the charges brought against him by the House of Commons, the penalty might be banishment or forfeiture of land, heavy fine or imprisonment in the Tower, or death. If evidence were lacking to support impeachment, Parliament could resort to a bill of attainder, as it did with the Earl of Strafford, who was beheaded on May 12, 1641. A bill of attainder is a legislative act that inflicts punishment on a designated individual without a judicial trial. The first bill of attainder was passed by Parliament in 1459.

During the American Revolutionary period, several State legislatures used bills of attainder to condemn Tories and to confiscate their property. Thomas Jefferson in 1778 drafted a bill of attainder, which the Virginia legislature passed, against Josiah Philips, a notorious Tory brigand. Elbridge Gerry of Massachusetts, at the 1787 Constitutional Convention, proposed a prohibition against bills of attainder. The proposal was adopted unanimously, and it appears in article I, section 9, as a limitation on Congress, and in article I, section 10, as a limitation on the states.

Back to impeachment, colonial legislatures used the weapon to remove officials from office for maladministration, corruption, and misconduct in office. The Federal Constitution, in article I, section 2, gives to the House of Representatives the “sole Power of Impeachment,” and, in article I, section 3, gives to the Senate the

"sole Power to try all Impeachments," thus copying from the English model. The framers, however, limited the penalty to removal from office and disqualification to hold any office of honor, trust or profit under the United States.

Various privileges and immunities guaranteed to Congress by the Constitution were similar to those that Parliament had won through centuries of struggle against autocratic rule. Freedom of speech, for example, was a privilege anciently possessed by the members of the House of Lords, they being able to defend their rights by force of arms. However, during the early years of existence of the House of Commons, its members were frequently proceeded against by the crown for speeches they had made in Parliament. Members complained about this harassment and infringement upon their liberties. If they were denied freedom to speak without fear of reprisal, then they could not be independent of the King. If they could be punished by the King for their speeches in Parliament that were displeasing to him, then they could not check arbitrary government. Freedom of speech was fundamental, therefore, to the power of Parliament, for without this right, Parliament would become a weak and spineless body, totally subservient to the King. Henry IV, who had been made King by Parliament, had to keep the good will of Parliament and he was compelled to ask Parliament for money to finance his wars. The members were aware of their strong position, and when they demanded more privileges and powers, Henry was forced to yield. Thus, he acknowledged the right of Commons to debate freely, and, in 1407, he proclaimed that the lords and commons might "commune among themselves in this present Parliament and in every other in time to come, in the absence of the King, of the estate of the realm and of the remedy necessary for the same." Subsequent to Henry IV's reign, there were, from time to time, violations of the right to freedom of speech, and Parliament would act to reaffirm the right, only to have it violated again. The privilege was finally confirmed by the English Bill of Rights in 1689, under William III and Mary, the ninth article of which provided that "the freedom of speech, and debates or proceedings in Parliament, ought not to be impeached or questioned in any court or place out of Parliament." Nearly the same language was included in article I, section 6, of the American Constitution, which states, with reference to Members of Congress, "for any Speech or Debate in either House, they shall not be questioned in any other Place."

Henry IV also formally recognized the privilege of members of Parliament to freedom from arrest on civil process during a session of Parliament and in going to or returning from one, but the privilege had dated from the earliest Anglo-Saxon times. Ethelbert, in a law of the Kingdom of Kent in the sixth century, ordained that, if the King called his people "to him, and one there do them evil let him compensate with a twofold bot and fifty shillings to the King." A law of King Canute, who reigned from 1016 to 1035, proclaimed that every man was entitled to freedom from molestation in going "to the gemot and from the gemot, except he be a notorious thief." During Edward I's reign (1272-1307), the principle was enunciated that it was unbecoming for a member of the king's council to be distrained in time of its session. A statute of 1432,

in the reign of Henry VI, required punishment of anyone who molested members coming to Parliament, giving, as in the ancient law of Ethelbert, double damages to the injured party.

Notwithstanding the immemorial recognition of the privilege of freedom from arrest of members for civil causes during Parliament's sessions, frequent contests took place for its enforcement. Under James I in 1604, Sir Thomas Shirley was arrested for a private debt and he claimed freedom from arrest as a Member of Parliament. The King reluctantly accepted the decision of the House of Commons upholding Shirley's contention. The privilege was written into the U.S. Constitution by the framers, article I providing that Congress' members "shall in all cases, except Treason, Felony and Breach of the Peace, be privileged from Arrest during their Attendance at the Session of their respective Houses, and in going to and returning from the same."

The right of the House of Commons to decide contested elections of Members was challenged under James I, in the case of Sir Francis Goodwin, who had been returned as a knight from Buckinghamshire. He had earlier been outlawed in the process of a civil suit, and the royal proclamation summoning Parliament had barred such a candidate. A writ of election had, therefore, been refused by the court of chancery. In a new election, the defeated candidate, Sir John Fortescue, was elected. When Parliament assembled in 1604, it asserted that by precedent it had the right to rule on election disputes, and the Members determined that Goodwin "was legally elected and returned" and that the outlawry did not disqualify him. King James denied the validity of the first election, declaring that he was not bound by precedents set by his predecessors, but, after a prolonged dispute, he granted the right of the House of Commons to be the judge of returns of its own Members, and the right of the Commons to determine the qualifications of its own Members was never again questioned. Although this right was abandoned in England in 1868 by an act providing for trial of election cases in the superior courts of law, the American Constitution in 1787 showed the impress of the period of its formation, in the article I, section 5, provision that, "Each House shall be the Judge of the Elections, Returns and Qualifications of its own Members."

The Act of Settlement of 1701 provided that "no person who has an office or place of profit under the king or receives a pension from the Crown shall be capable of serving as a member of the House of Commons." This was intended to check the corrupt influence of the Crown over Parliament, but the evil remained, and the Crown continued to exert control by gifts of offices and pensions. In 1741, two hundred appointments were held by Members of the House of Commons. The following year, the Place Bill excluded a large number of officials from Commons. In 1782, five years before the Philadelphia Convention, Parliament passed the Civil List Act, bringing about further reform of the same nature. The U.S. Constitution corresponds with the spirit of the 1701 Act of Settlement, in stating, in article I, section 6: "No Senator or Representative shall, during the Time for which he was elected, be appointed to any civil Office under the Authority of the United States, which shall have been created, or the Emoluments whereof shall have been increased during such time; and no Person holding any Office

under the United States shall be a Member of either House during his Continuance in Office."

Mr. President, it is not necessary to consider the full list of legislative powers and immunities contained in the Constitution that may be compared with those of Parliament and of the colonial legislatures from which many of those powers were copied or derived. Enough has been said to establish the debt that Americans owe to the English experience and to the influence of the English Constitution in the formulation of the American Constitution.

I have been able to trace root and branch in example after example the nexus between the two constitutions.

However, in discussing the item veto or any proposal favoring enhanced rescission authority for the Executive, it is important to review briefly the long history of the power over the purse and how that power came to be vested in the legislative branch, this branch.

Since time immemorial, Anglo-Saxon and later English kings had levied taxes on their subjects with the advice and consent of the witenagemot or the Great Council. When Parliament later grew out of the Great Council, and when knights and burgesses from the shires and boroughs and representatives from the town and rural middle class were chosen to participate in Parliament, the king sought approval, from this representative body, of revenues for the operation of government, the national defense, and the waging of wars. In return for its approval of the sovereign's request for money, Parliament learned that it could secure the redress of grievances and exact concessions from the king. You are asking for money? Then we, the people's representatives, want this first. Make these concessions, and then we will vote you the money. If he resisted, then Parliament would refuse to grant funding requests and new taxes. In 1297, almost 700 years ago now, Edward I reluctantly agreed to the "Confirmation of the Charters," and, in doing so, he agreed, under clause 6 of the Parliamentary document, that in the future he would not levy "aids, taxes, nor prises, but by the common consent of the realm." The significance of the event was twofold. In the first place, it was henceforth necessary that representatives of the whole people, and especially the middle class, be summoned to all Parliaments where any non-feudal taxation proposals were to be considered. Moreover, and of even greater importance, the control of the purse was lodged in Parliament, and this was a power that Parliament would frequently use to check the abuse of royal authority and to persuade the king to grant concessions.

This is the meat of the coconut. On two occasions in Edward II's reign (1307-1327), Parliament had asked for a redress of grievances before it granted taxes on personal property, and in both cases, the substance of Parliament's petitions were approved and enacted into statutes by the king. On one of these occasions, in 1309, the Commons granted a subsidy "upon this condition, that the king should take advice and grant redress upon certain articles wherein they are aggrieved." Members of Congress should take note.

There are early instances of the allocation of funds for specific purposes, such as the Danegeld, which was a land tax levied to meet requirements arising from Danish invasions and to buy off

the invaders. It usually was two shillings on each hide of land. It continued for some time after the danger of Danish invaders had passed, and, as a land tax, it was revived by William the Conqueror for specific emergency purposes such as defense preparations in 1084, when the King of Denmark threatened to enforce his claim to the English throne. Although continued as a land tax under William I's successors, its original character was lost, and its name, the Danegeld, fell into disuse in 1163, during the reign of Henry II. It became a source of revenue for general purposes.

Feudal charges were levied by kings before the creation of Parliament and appropriated for specific purposes. For example, scutage, a tax levied upon a tenant of a knight's fee in commutation for military service, was assigned to the financing of military measures. Funds collected to buy Richard I's freedom were paid into a special "exchequer of ransom." The Saladin tithe was applied to financing the costs of a crusade, as were specific grants for Holy Land conquests in 1201, 1222, and 1270. In 1315, the Barons successfully insisted that Edward II's personal expenditures be limited to £10 a day. By Edward III's day (1327-1377), it was becoming customary to attach conditions to money grants. Parliament often insisted that the money granted should be spent for certain specified purposes, and for no others.

In 1340, a grant was made by Commons to the king on the condition that it "shall be put and spent upon the Maintenance and Safeguard of our said Realm of England, and on wars in Scotland, France, and Gascoign, and in no places elsewhere during the said Wars." In 1344, a two-year subsidy was granted and appropriated specifically for the war in France and for defense of the North against invasion by the Scots. Two years later, and again in 1348, it was stipulated that the aid must be used for defence against the Scots. Parliament granted a subsidy to Richard II in 1382 with the express provision that it go to "the improvement of the defence of the realm of England and the keeping and Governance of his Towns and Fortresses beyond the Sea." The expenses of Henry IV's coronation, who reigned from 1399 to 1413, were funded by a special appropriation.

Sometimes, treasurers were appointed for overseeing a particular subsidy to ensure that the money was spent in accordance with the terms specified in the appropriations. Ship money was levied in early times in port cities to provide for naval maintenance and upkeep, the assumption being that the ports were the primary beneficiaries of a strong navy and were safeguarded from invasion by it. In 1382, the revenues from tonnage and poundage were specified for application to the safe keeping of the sea.

Some of the early appropriations went into details. For instance, a grant was made to Edward IV in 1472 to cover the expenses of 13,000 archers for one year at a daily wage of sixpence. Another grant was made by Commons to Edward IV in 1475 for his war in France on the condition that his departure for France be no later than St. John's Day in 1476, and he was not to receive the money until his ships were actually ready to leave for France.

Wool subsidies were specifically appropriated, on occasion, for defraying the cost of the garrison of Calais. The terms of numerous grants from the 14th century to the 17th century required the ap-

plication of customs receipts to the defense of the country against invasion and to the protection of ships against pirates and hostile navies. The preamble to the subsidy Act of 1558-9 quoted Edward I as having recognized that his predecessors "tyme out of mynde have had enjoyed unto them, by authoritie of Parliament, for the defence of the Realms and the happy saulfguarde of the Seas" the proceeds of customs charges on certain goods.

Following the Restoration in 1660, Commons aimed at keeping Charles II short of funds to prevent the maintenance of a large standing army in time of peace. This was in contrast to their willingness to make grants for the navy, and they took precautions to ensure that appropriations for the Navy were spent for that purpose and no other, as, for example, in 1675, it was provided that the funds "for building ships shall be made payable into the Exchequer, and shall be kept separate, distinct, and apart from all other monies, and shall be appropriated for the building and furnishing of ships, and that the account for the said supply shall be transmitted to the Commons of England in Parliament."

The principle of appropriating the supplies (sums of money) for specific purposes only, instead of placing the funds without reserve into the king's hands, dates back, as I have quoted, at least as far as 1340. Here, then, as early as the mid-1300's—650 years ago—was the beginning of the current system of congressional appropriations as we know them. Members of Congress should be aware of the venerableness of this aspect of the modern appropriations process. It was not something that was conceived just yesterday and did not just come out of the woodwork.

After the Commons and Lords separated into two houses in the early 1300's, around 1339, 1340, and 1341, the House of Commons reserved to itself the power—the House of Commons reserved to itself the power to initiate tax and money bills.

Now where have we heard that before?

In 1395, the grant to the king, Richard II, was made "by the commons with the advice and consent of the lords." It started out in the commons. In 1407, the king—Henry IV, the former duke of Lancaster—agreed that he would listen to reports about money grants only "by the mouth of the speaker of the Commons." The right of the commons to originate taxes and money grants was a right by custom, not a statutory right, but it was a custom that was not easily shaken. For example, Henry IV had failed in 1407 when he tried to proceed first through the House of Lords. The Commons refused to accept such "a great prejudice and derogation of their liberties." The U.S. Constitution, in Article I, reflects the very same principle: "All Bills for raising revenue shall originate in the House of Representatives."

As the years passed, Parliament extended its power in the control of government expenditures and the earmarking of appropriations of money for particular purposes. Almost always it was specified that general taxes to the king were for national defense, a part of the custom on wool was to be used for the maintenance of Calais, as I have earlier stated, and the tunnage and poundage tax was to be spent for such specific purposes as the navy and "the safeguarding of the sea and in no other way." The royal income was to be used for the expenses of the royal household.

During the Commonwealth, the House exercised full control over government expenditures, and after the Restoration in 1660, the House claimed, and Charles II grudgingly conceded, the right of appropriation in the Appropriation Act of 1665. From that time, it became an indisputable principle that the moneys appropriated by Parliament were to be spent only for the purposes specified by Parliament. Since the reign of William and Mary (1689–1701), a clause was inserted in the annual Appropriation Act forbidding—forbidding under heavy penalties, Lords of the Treasury to issue, and officers of the Exchequer to obey, any warrant for the expenditure of money in the national treasury, upon any service other than that to which it was distinctly appropriated.

The right of Parliament to audit accounts followed, as a natural consequence, the practice of making annual appropriations for specified objects. Even as early as 1340, a committee of Parliament was appointed to examine into the manner in which the last subsidy had been expended. Henry IV resisted a similar audit in 1406, but in 1407 he conceded Parliament's right to look at the ways the appropriations were spent. Such audits became a settled usage.

These two principles—that of appropriations and that of auditing—were united by the framers in a single paragraph of Article I, section 9, of the U.S. Constitution: "No Money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law; and a regular Statement and Account of the Receipts and Expenditures of all public Money shall be published from time to time."

So, Mr. President, as we can see, legislative control over taxation bears close relation to the history of Parliament. The witenagemot possessed the right of advice and consent regarding taxation, although the right was probably exercised only rarely because the royal needs in the Anglo-Saxon era were normally supplied by income from royal farms, fines, and payments in kind or the quasi-voluntary tribute paid by the kingdom to its sovereign. The Norman kings exacted feudal aids and other special varieties of taxation, retaining and adding to the imposts of Saxon kings. But there is scant evidence as to what extent the council was asked by the kings. Although a tax in the reign of Henry I (1100–1135) was described as the "aid which my barons gave me," it appears that until the time of Richard I (1189–1199), the king usually merely announced in assembly the amounts needed and the reasons for his imposing subsidies. By the feudal doctrine, the payer of a tax made a voluntary gift for relief of the wants of his ruler.

Magna Carta (1215) provided that, except for three feudal aids, no tax should be levied without the assent of a council duly invoked. But as the burden of taxation increased, the necessity for broadening the tax base to all classes of society also increased. Hence, the establishment of the representative system in Parliament had its essential origin in the necessity for obtaining the consent, by chosen proxy, of all who were taxed. After the "Confirmation of the Charters" in 1297, the right of the people of the realm to tax themselves through their own chosen representatives became an established principle. The Petition of Rights, reluctantly agreed to by Charles I in 1628, emphatically reaffirmed the principle. Charles had attempted a forced loan in 1627 to meet his ur-

gent money needs. This was, in effect, taxation without parliamentary sanction, and many refused to contribute, whereupon Charles arbitrarily imprisoned several persons who would not pay. When he called Parliament into session the next year, twenty-seven members of the new house had been imprisoned for failure to pay the forced loan. When Charles demanded the money he so desperately needed, the commons paid no attention. They decided almost at once to put their major grievances in a Petition of Rights. Among these, the Petition asked that arbitrary imprisonment should cease and that arbitrary taxation should cease and "no man hereafter be compelled to make or yield any gift, loan, benevolence, tax, or such like charge, without common consent by Act of Parliament." When Charles granted the Petition of Rights, the Commons voted him taxes.

The insistence by Charles I that he possessed a divine right to levy taxation and could seek funds directly from citizens, created the conditions for civil war in England. James I had decided to raise revenue by imposing an import duty on almost all merchandise, and the political struggle intensified when Charles acted to levy tonnage and poundage without parliamentary authority. After the House of Commons passed the Petition of Rights, it also moved to curb the King's power to raise revenue from customs duties, precipitating another clash with Charles.

Charles I tried to govern without Parliament by resorting to various means of raising revenue. Additional Knighthoods were created, requiring the beneficiaries to pay a fee to the King. Those who refused were fined. Other efforts to raise money led to increased resentment from citizens and threw the country into a state of crisis. Charles lost both his throne and his head.

The Bill of Rights, to which William III and Mary were required to give their assent before Parliament would make them joint sovereigns, declared "that levying money for or to the use of the crown, by pretense of prerogative, without grant of Parliament, for longer time, or in other manner than the same is or shall be granted, is illegal."

It was the violation of this constitutional principle of taxation by consent of the taxpayers, through their chosen representatives, that led to the revolt of the colonies in America. The Declaration of Independence explicitly names, as one of the reasons justifying separation from England, that of her "imposing taxes on us without our consent."

There is, then, a certain historic fitness in the fact that first among the powers of Congress enumerated in Article I, section 8, of the Constitution is the power "to lay and collect taxes." The power to appropriate monies is also vested by Article I solely in the legislative branch—nowhere else; not downtown, not at the other end of Pennsylvania Avenue, but here in the legislative branch.

Mr. President, I close, as I began, by saying that we have all perhaps been subject to the notion that the Federal Constitution with its built-in systems of checks and balances, was an isolated and inovative new instrument of government which sprang into existence—sprang into existence—during three months of meetings behind closed doors in Philadelphia, and that it solely was the product of the genius of the Framers who gathered there behind closed

doors to labor to make it come about. However, as I have also said heretofore, American constitutional history can only be fully understood and appreciated by looking into the institutions, events, and experiences of the past out of which the organic document of our nation evolved and took unto itself a life and soul of its own. To ascertain the origin of the Constitution, then, it must be sought among the records treating of the fierce conflicts between kings and people—it cannot be found just in Madison's notes, but it must be sought among the records of treating fierce conflicts between kings and people—the evolution of chartered rights and liberties, and the development of Parliament in the island home of those hardy forebears who crossed the Atlantic to plant new homes in the wilderness and who transplanted to the English colonies of the New World the familiar institutions of government which would assure to them the rights and liberties which they, as British subjects in a new land, held to be their due inheritance. The U.S. Constitution was, in many ways, the product of many centuries—many centuries—and it was not so much a new and untried experiment as it was a charter of government based largely on the British archetype, as well as on State and colonial models which had themselves been influenced by the British example and by the political theories of Montesquieu, who believed that political freedom could be maintained only by separating the executive, legislative, and judicial powers of government, which powers, when divided, would check and balance one another, thus preventing tyranny by any one man, as had been the case in France.

Moreover, unlike the British Constitution, which, as I say, was generally an unwritten constitution consisting of written charters, common law principles and rules, and petitions and statutes of Parliament, the American Constitution was a single, written document that was ratified by the people in conventions called for the purpose.

In a real sense, therefore, the U.S. Constitution was an instrument of government that was the result of growth and experience and not manufacture, and its successful ratification was, in considerable measure, due to the respect of the people for its roots deep in the past. The mainspring of the constitutional system of separation of powers and delicate checks and balances was the power over the purse—the power over the purse—the mainspring of the constitutional system of separation of powers and delicate checks and balances was the power over the purse, vested—where? Here in the legislative branch. That power guaranteed the independence and the freedom of the people.

James Madison, who is justly called the father of the Constitution, summed up, in a very few words, the significance of the power over the purse in the preservation of the people's rights and liberties, and the fundamental importance of the retention of that power by the people's elected representatives in the legislative branch.

He did this in the Federalist No. 58, in which he referred to the House of Representatives and said:

"They in a word hold the purse; that powerful instrument by which we behold in the history of the British constitution, an infant and humble representation of the people, gradually enlarging the

sphere of its activity and importance, and finally reducing, as far as it seems to have wished, all the overgrown prerogatives of the other branches of the government. This power over the purse, may in fact be regarded as the most compleat and effectual weapon with which any constitution can arm the immediate representatives of the people, for obtaining a redress of every grievance, and for carrying into effect every just and salutary measure."

Let me read just the last portion of the work by Madison.

"This power over the purse, may in fact be regarded as the most compleat and effectual weapon with which any constitution can arm the immediate representatives of the people, for obtaining a redress of every grievance, and for carrying into effect every just and salutary measure."

Mr. President, the elected representatives of the people in this body should remember those immortal words by Madison, the father of the Constitution. If they wish to know the value of the constitutional liberty, they might retire to those words and read.

Mr. President, to alter the constitutional system of checks and balances, by giving the executive—any executive, any President, Democrat or Republican—a share in the taxing or appropriations power through the instrument of an item veto or enhanced rescission would, in my view, be rank heresy. As we have seen, the entrusting of the power over the purse to the legislative branch was no accident of history but rather the result of over 600 years of contest with royalty. To chisel away this rock, that through bloody centuries has undergirded the hard-won, cherished rights of freemen in England and in America, should be anathema to any informed and thoughtful citizen in these United States.

To quote Aristotle: "Of all these things the judge is Time." From our vantage point, then, Mr. President, as we take the long look backwards into the murkey past, history clearly teaches us that the power over the purse—to tax and appropriate funds—wisely came to be lodged, more than 600 years ago, in the directly elected representatives of the people; that this principle lies at the foundation and is a chief source of our liberties; and that it is not a power that should be shared by a king or a President.

Now, Mr. President, the title of my second speech is: "The Item Veto; Why Follow the States?"

Mr. BROWN. Mr. President, I rise today in support of the legislative line-item veto amendment offered by Senator MCCAIN granting the President authority to veto specific items. The President should have this authority to veto inappropriate, wasteful spending because Congress cannot seem to discipline itself. The annual appropriations bills, which include hundreds of pork barrel projects and contribute to our \$400 billion Federal budget deficit, are evidence of this lack of self-discipline. It is further demonstrated by the fact that it has been 23 years since the United States had a balanced Federal budget.

This amendment gives the President two opportunities every year to eliminate wasteful spending through line-item veto. First, the President can submit rescissions as part of his budget proposal at the beginning of the year. Second, he can line-item veto wasteful pork spending within 20 days after signing an appropriations bill. At either point, Congress has 20 days to overturn those line-item

vetoed or accept them. If Congress does not act, the items identified by the President are eliminated and the taxpayers' money is saved. If Congress feels the items have merit, it can adopt a joint resolution disapproving the rescissions.

There is no justification for pork barrel spending. Just today, I introduced the Spending Priority Reform Act of 1992, which identifies 642 projects totaling more than \$1.5 billion from the fiscal year 1992 appropriations bills. All of these 642 projects failed to follow the budget process. The bill rescinds any unobligated funds for these projects and returns the balance to the Treasury to reduce our \$400 billion deficit. Although the savings from this proposal are small relative to the \$1.5 trillion Federal budget, it does introduce integrity and fiscal responsibility into the process.

Congress must set priorities and control wasteful Government spending. The Presidential line-item veto will keep Congress in line. I support this amendment, and I urge my colleagues to do the same.

Mr. KASTEN. Mr. President, I strongly support the initiative by Senators MCCAIN and COATS to grant the President line-item veto authority. While this legislation is needed to broaden and clarify the President's veto authority, I believe it is time for the President to line-item veto wasteful parts of multibillion-dollar spending bills and test his authority on the issue with the U.S. Supreme Court. Today's \$390 billion budget deficit has been created by a bankrupt congressional budget process which has taken away the President's power to control Federal spending.

Some legal scholars believe that the President has an inherent line-item veto power granted by the U.S. Constitution. This theory is based on historical precedents which underscore the original intent of the Constitution's Framers.

The Constitution empowered the President to veto spending bills passed by the Congress. However, the boundaries of Presidential discretion over the expenditure of appropriated funds were not clearly defined by the Framers. From 1789 until the collapse of the Nixon Presidency, the President retained the power to impound—or refuse to spend—money appropriated by Congress. The Congress could not overturn this action. Effectively, this impoundment power amounted to a line-item veto.

For almost 200 years, Presidents exercised this inherent item-veto power to check the Congress' propensity to overspend. For example, in 1801 President Thomas Jefferson withheld \$50,000 intended for maintaining Navy gunboats on the Mississippi. President Franklin D. Roosevelt impounded \$500 million that Congress had earmarked for public works projects. In the 1960's, Presidents Kennedy and Johnson used impoundment power to reduce Federal spending by 6 percent and 5.4 percent during their respective administrations.

President Nixon pushed his impoundment power to its outer limits by reducing and eliminating spending projects appropriated by Congress. In response to Nixon's alleged abuse of impoundments, Congress passed the 1974 Budget and Impoundment Control Act, which effectively stripped the President of a legitimate constitutional power to item veto wasteful spending.

The combination of restricted impoundment and the congressional use of multibillion-dollar appropriations bills has caused deficit spending to skyrocket. In fact, the budget deficit increased over fourfold in the first 10 years of the 1974 act.

A new General Accounting Office [GAO] study confirms that a line-item veto would be a significant tool in bringing the budget deficit under control. Specifically, the GAO found that if Presidents Ronald Reagan and George Bush had had an item veto from 1984 to 1989, about \$70 billion in wasteful Government spending would have been reduced and eliminated.

The GAO simply took the administration's announced objections to various spending projects and funding levels and assumed that the President selectively vetoed these items. With these line-item spending cuts factored in, the GAO estimated that the additions to the Federal debt over the 5-year period would have been reduced by 6.7 percent.

Clearly, the line-item veto would help keep deficit spending under control—and, more importantly, put an end to the calls by some in Congress to raise taxes. Unfortunately, the Democrat-controlled Congress has repeatedly squelched legislative attempts by Republicans to explicitly grant line-item veto authority to the President.

With the national debt rising to just over \$4 trillion this year, we simply cannot afford to wait for the Congress to act. That is why I believe the President should assert his inherent item veto power—and eliminate wasteful spending.

THE ITEM VETO; WHY FOLLOW THE STATES?

Mr. BYRD. Mr. President, in my first address on the item veto, I discussed the crucial ingredients of representative government that the Framers borrowed from our English heritage. The purpose was to shift the focus from what some reformers see as short-term benefits in dealing with the current budget deficit to the much larger perspective of institutional moorings and constitutional safeguards, including separation of powers and our system of checks and balances. I traced in substantial detail the degree to which those values depend on the retention by the legislative branch of its control over the power of the purse.

In debating the virtues—and the vices—of the item veto, we must remain alert to its implications for constitutional government and executive-legislative relations. Now I will examine an argument we frequently hear: The President should have the item veto because 43 State Governors have it.

So we hear the President say, give me what 43 State Governors in this country have and I will balance the budget. And we hear many of the Governors say we have the power of the item veto, why should the President not have it?

There are some former Governors in this body who make that argument.

Mr. President, this argument is too simplistic. It sounds good. It is much too simplistic. It suggests that State governments are like the Federal Government, only smaller. One need only compare the Federal Constitution against any State constitution to note the

vast differences in the powers, functions, purposes, and responsibilities of the Federal Government versus the State governments.

So to those who say, "Give me what the 43 State Governors have. If it is good for them, I ought to have it. Why not give it to me?" And to those in this body who say, "If it is good enough for 43 Governors, it should be good enough for the President of the United States." And those candidates out there who have not read the Constitution lately and who argue, "Oh, 43 Governors of the country have it and we balanced our budgets. Why shouldn't the President have it?" I say they have not read their Constitution lately, if ever they have paid very much attention to it.

Many constitutional provisions appropriate for the States are not suitable for the Federal Government.

Sixteen members of the present Senate have been State Governors. By my count, they are split down the middle on the issue of granting the President an item veto. Half favor it; half oppose it. Obviously the question of following State precedents on the item veto is a complex one. We cannot conclude that what is good for the States is automatically good for the Federal Government.

There are many questions to be explored. What constitutes an "item," and does it include a "part" or "section" or phrases or clauses or a whole paragraph? Why did the States grant their Governors an item veto? What other changes did they have to make in their constitutions and budget process to accommodate the item veto? Do we want those changes in the U.S. Constitution? What item veto issues have had to be litigated in State courts? Would we likely inherit those issues at the national level? Would the item veto reduce Federal budget deficits?

My remarks will demonstrate that the debate on the item veto is filled with serious misconceptions. When we examine the item veto at the State level, and compare it to the way Congress and the President act on the national budget, it is clear that the item veto should not be adopted by the Federal Government.

I do not care what those Democratic candidates running for President say. I do not care what the President says. I do not care what George Will says in his column. I do not care what the Wall Street Journal says in its editorial. I do not care what the General Accounting Office says in its lately published trash piece.

RELYING ON THE STATES AS A MODEL

Presidents who favor the item veto often point to State precedents for support. In asking for an item veto in his State of the Union Address in 1986, President Reagan told Congress: "I ask you to give me what 43 Governors have: Give me a line-item veto this year. Give me the authority to veto waste, and I'll take the responsibility, I'll make the cuts, I'll take the heat." In his State of the Union Address the next year, he asked for a line-item veto, as he said, "so we can carve out the boondoggles and pork, those items that would never survive on their own."

Later in 1987, in a speech to the U.S. Chamber of Commerce, President Reagan claimed that the line-item veto would enable him to "cut wasteful projects." In a radio address to the Nation, he described the line-item veto as "a way of reaching into these massive congressional spending bills and cutting out the wasteful items." In

yet another speech in 1987, this time to the National Association of Manufacturers, President Reagan told his audience that the line-item veto would give the President "the ability to veto spending, project by project."

In his State of the Union Message in 1988, President Reagan again asked Congress to give the President "the same authority that 43 Governors use in their States: the right to reach into massive appropriation bills, pare away the waste, and enforce budget discipline." He claimed that the continuing resolution contained "millions for items such as cranberry research, blueberry research, the study of crawfish, and the commercialization of wildflowers." He promised to submit a proposal to rescind those items, "which" he said, "if I had the authority to line them out I would do so."

This reliance on State practices is fundamentally flawed. President Reagan ignored crucial differences between budgeting at the State and national levels.

Those others who proclaim the wonders of the line-item veto likewise ignore crucial differences.

His remarks to Congress, the Nation, and various organizations on the item veto were profoundly misleading. The facts are clear. Even if President Reagan had had the item veto during his two terms in office, he could not have "carved out," to use his words, "the boondoggles and pork," cut wasteful spending "project by project," or eliminated funds for "cranberry research, blueberry research, the study of crawfish, and the commercialization of wildflowers." Later in my remarks, I will explain why that is so.

There has been too much confusion and misrepresentation on the item veto. It is necessary for us, as representatives of the people, to set the record straight. Especially on constitutional questions we must seek and speak the truth.

WHY DID THE STATES ADOPT THE ITEM VETO?

Why did 43 States give their Governors the item veto and, yet, Congress consistently refuses to grant that power to the President? Part of the reason lies in the different attitudes toward legislative power at the State level and congressional power at the national level. The expectations that we have for State legislatures and for Congress are not the same.

When the American States declared their independence from England, initially they passed through a period of distrust toward executive power. Given the attitude at that time toward George III, that is not surprising. Few of the States gave their Governors a veto power. Between 1776 and 1787, only three States empowered their Governors to exercise the veto: South Carolina, New York, and Massachusetts. The Governor of New York, as part of a "council of revision," shared the veto power with the chancellor and the judges of the State supreme court. Not until 1821 was the veto power vested solely in the Governor of New York. Over time, the original thirteen States and the new States gradually extended the veto power to their Governors. At the present time, every State gives the Governor a qualified veto with the exception of North Carolina.

After the Civil War, some of the States began to grant the Governor a form of "item veto" over legislation. Usually this power was

restricted to appropriations bills. Some Governors were empowered not only to strike an item but also to reduce its amount. That is known as the item-reduction veto.

The motivation for the item veto came from several sources. One was the provisional constitution of the Confederate States, adopted on February 8, 1861, seventy-five years after the U.S. Constitution was written. The permanent constitution of the Confederacy also contained the item veto, using this language:

"The President may approve any appropriation and disapprove any other appropriation in the same bill. In such case he shall, in signing the bill, designate the appropriations disapproved; and shall return a copy of such appropriations, with his objections, to the House in which the bill shall have originated; and the same proceedings shall then be had as in the case of other bills disapproved by the President."

The framers of the Confederate Constitution in 1861 adopted the item veto because they were impressed by the operation of the English parliamentary system as it had by then developed. They believed that it promoted more effective and efficient practices than did the American system of separation of powers. In particular, they liked the way that budgetary power was concentrated in the Prime Minister and his cabinet. Under this system of government, the legislative body had little say over the content of financial plans. The British Parliament was largely subordinate to the Prime Minister.

The leaders of the South, although admirers of the English governmental system, were not "blind imitators." Nevertheless, they provided that proposals for expenditures should originate with the President. With the exception of legislative expenses and the payment of claims against the Confederate States, the Confederate Congress was forbidden to appropriate funds unless they were asked for, and estimated by, heads of the executive departments or unless Congress could muster a two-thirds vote in both Houses. To defend his budget estimates, the President, Jefferson Davis, was given the item veto, but he never exercised the authority. The Confederate Constitution also resembled the British parliamentary system in another manner. The Confederate Congress was empowered to grant seats in either house to the heads of the executive departments, with the privilege of discussing any measure concerning their department.

These types of parliamentary procedure have been considered but not adopted by the U.S. Congress. After World War I, when Congress considered legislation that became the Budget and Accounting Act of 1921, some of the budget reformers wanted to place Congress in the same subordinate position as the Confederate Congress had been. It was proposed that Congress could not add to the President's budget unless it received permission from the Secretary of the Treasury or could attract a two-thirds majority in each House. That idea was firmly rejected by Congress. It did not embrace the parliamentary system. The budget submitted by the President was executive only in the sense that he was responsible for the estimates submitted. After the budget was submitted, Congress retained full power to increase or decrease the estimates by majority vote.

With regard to giving departmental heads a seat in Congress with the privilege of debating measures within the jurisdiction of their departments, that proposal has been advanced several times. Congressman George Pendleton of Ohio recommended it in 1864 and again, later, in 1879, when he was a member of the U.S. Senate. He was never successful in persuading his colleagues on the merit of this idea.

In addition to the influence of the Confederate Constitution, some of the States granted the Governor an item veto for another reason. Most of the item vetoes were in place by 1915 and reflected the efforts of progressiveness to institute "good government." Reformers regarded state legislatures as corrupt and venal. The following description of the Illinois Legislature appears to fit the reputation of other state legislatures in the years after the Civil War:

"The record of the Illinois assembly in the period immediately following the Civil War is perhaps no more shameful than the general legislative debacle of that period; but the enactment of 2,113 bills during Governor Oglesby's term (1863-68), and of an additional 1,814 during the term of Governor Palmer (1868-72), illustrates the orgy which took place in legislatures generally. The disturbing feature of these legislative mills was the fact that a large majority of their products were obviously, and even blatantly, special in nature. Grants, subsidies, charters, appropriations—favors in the form of special and local legislation—were enacted in gross negligence of public interest. (The fiction of Mark Twain's *Gilded Age* is hardly as strange as the truth.) A clear impression of the extent of this violation of legislative principle may be had by comparing the four volumes of special and local bills enacted in 1869 with the single volume of enactments of general state interest and purpose."

In response to this legislative behavior, States began to arm the Governor with the item veto. Moreover, State constitutions were rewritten wholesale to restrict the legislature. For example, Florida's Constitution of 1868 limited the number of subjects that could be included in a bill: "Each law enacted in the Legislature shall embrace but one subject and matter properly connected therewith." Significantly, these types of restrictions have never been applied to Congress. As a result, the budget procedures followed by the States are in no way comparable to those adopted by the National Government. Once we understand the extent of that difference, we can understand why the item veto is inappropriate for the Federal Government.

CONSTITUTIONAL RESTRICTIONS ON STATE LEGISLATURES

Anyone reading the text of State constitutions is struck by their antilegislature bias. The constitutions are filled with proscriptions and prohibitions. In contrast to the U.S. Constitution, which is in the nature of a general charter with few restrictions on Congress, State constitutions place limits on State borrowing, require balanced budgets, and contain numerous prohibitions on private, special, and local laws. Specifications are set forth, usually of a restrictive nature, on laws that (1) fix the rate of interest; (2) remit fines, penalties, or forfeitures; (3) exempt property from taxation; (4) relate to the management of public schools; and (5) alter the salaries

of public officers during their terms in office. Such restrictions would be inappropriate for the U.S. Constitution; yet, they are commonplace in State constitutions.

Other restrictions in State constitutions are tied closely to the item veto. General appropriations bills shall contain nothing but appropriations. The purpose is to prohibit the addition of substantive legislation to appropriations bills. Authorization bills are limited to a single subject in many States. Language in State constitutions even dictates the style and form of appropriations bills. On all such matters, the U.S. Constitution is silent. Congress is at liberty to establish its own authorization and appropriations procedures and to change them whenever necessary.

The U.S. Constitution merely states that "No money shall be drawn from the U.S. Treasury, but in Consequence of Appropriations made by Law." Congress, thus, may act through the appropriations process with very few constitutional restrictions. Congress is prohibited from increasing or decreasing the compensation of a President during his term in office, and may not diminish the compensation of members of the Federal judiciary. The first amendment prohibits Congress from using the power of the purse to establish a national religion. For the most part, however, the spending power is available to Congress to use in accordance with its own judgment for social, military, and economic ends.

That is not the case with State constitutions. I shall cite some typical restrictions. First, although the Federal Constitution does not prohibit the Congress from adding legislation to appropriations bills—such matters are handled by House and Senate rules—State constitutions do prohibit legislation on appropriation bills. Section 71 of the Alabama Constitution provides that the general appropriations bill "shall embrace nothing but appropriations" for specified purposes. Article IV, section 8, of the Illinois Constitution states that appropriations bills shall be limited to the subject of appropriations. Article IV, section 69, of the Mississippi Constitution directs: "Legislation shall not be engrafted on appropriations bills. * * *" Under the New Mexico Constitution, article IV, section 16, any matter not specifically authorized by the Constitution to be included in appropriations bills shall be held void. Other State constitutions contain similar restrictions. The U.S. Congress is not subject to constitutional limitations on what belongs in appropriations bills. What a difference.

Second, Congress can limit a bill to a single subject or pass a bill with more than one subject. The State constitutions prohibit legislatures from including more than one subject within a bill, other than the general appropriations bill. The purpose is to protect the governor's line-item veto and to restrict "logrolling" by legislators. Section 71 of the Alabama Constitution, after establishing the content of the general appropriations bill, states: "All other appropriations shall be made by separate bills, each embracing but one subject." Article II, section 16, of the Delaware Constitution provides: "No bill or joint resolution, except bills appropriating money for public purposes, shall embrace more than one subject, which shall be expressed in its title."

Can you imagine, Mr. President, our having to pass a separate bill for each subject? We would never get through.

Under article III, section 14, of the Nebraska Constitution, no bill shall contain more than one subject, "and the same shall be clearly expressed in the title." Similar restrictions are found in many other State constitutions. They form no part of the U.S. Constitution. The content of legislation is a prerogative exercised solely by Congress, subject to the President's veto.

Third, although the style and the format of bills are decided solely by Congress, State legislatures confront specific restrictions thereon in their constitutions. Article II, section 13, of the Alaska Constitution directs that the subject of each bill shall be expressed in the title, and even specifies the enacting clause: "Be it enacted by the Legislature of the State of Alaska." Under the Alabama Constitution, article IV, section 45, the style of laws of that State shall be: "Be it enacted by the legislature of Alabama," and the act "shall be divided into sections for convenience, according to substance, and the sections designated merely by figures." Comparable restrictions are placed in other State constitutions.

Fourth, Congress may itemize appropriations bills or include a number of items within a lump-sum amount. Typically, State constitutions require itemization as a means of protecting the Governor's item veto authority. Article III, section 16(C), of the Louisiana Constitution directs the legislature to pass an "itemized" appropriations bill. Article IV, section 12(c), of the California Constitution requires the Governor to send with his budget a budget bill "itemizing recommended expenditures."

Congress could itemize appropriations bills if it wanted to. However, that would lock agencies into the specific amounts for specific programs.

Mr. President, Congress could itemize. It is not directed to by the Constitution as the State legislatures are directed by their State constitutions to do. However, that would lock agencies into the specific amounts for specific programs. If those amounts and programs had to be changed in the middle of a fiscal year, which is often likely, the details would be frozen into law. The agencies would have to return to Congress for additional legislation to change the dollar amounts for the affected programs. The agencies do not want that, and neither does Congress. The legislative workload is heavy enough as it is.

Thus, it is settled practice for Congress to appropriate in large, lump-sum accounts. Agencies can shift funds within an account without seeking new legislation. The shifts of funds within an account is what we call "reprogramming," and usually involves a substantial amount of joint action by the agencies and the committees with jurisdiction. It is a practical process that meets the needs of both branches. Line-itemization is in the interest neither of Congress nor of the executive branch agencies.

THE PRACTICAL EFFECT OF LUMP-SUM FUNDING

The appropriation of lump-sum amounts in an appropriations bill means that there are no "items" to item veto. That is a very simple fact about Federal budgeting, and congressional advocates here in this Senate ought to know that. Have they never looked at an appropriations bill? Congressional advocates of the item veto consistently overlook that fundamental point. That is different from the

environment in which the State legislatures and their governments operate.

Can it be possible that these Members of the House and Senate have not carefully examined an appropriations bill? If there are no items in a bill, there cannot be any item veto. Can it be the President has not looked at the bills that he has signed? Somebody ought to show him one of those bills.

What could be more elemental?

Consider the claims made by President Reagan in his State of the Union Message in 1988. He told Congress, and the Nation, that if he had possessed an item veto when the continuing resolution reached him in December 1987, he would have eliminated funds for cranberry research, and for blueberry research. In fact, he could not have done that. He could not have done that. And here is why.

The four programs that President Reagan found objectionable could be item-vetoed by a President armed with item-veto authority only if they were mentioned in the bill presented to the President for his veto. Those programs, however, were not identified in the bill.

The four programs were funded under the agriculture title of the continuing resolution, within an account called "Cooperative State Research Service." The account provided \$303 million for various projects and activities. With item-veto authority, President Reagan, of course, could have deleted the entire \$303 million in the account. He could not, however, have eliminated only the four particular programs, because they were never specifically mentioned in the bill.

If we look within the account for Cooperative State Research Service we find a subsection that provides \$31 million for contracts and grants for agriculture research. The four programs identified by President Reagan are funded by that subsection. With an item veto could President Reagan have deleted the \$31 million? Possibly, but that would be vetoing an "item within an item," and some State courts have held that such actions by a Governor would exceed his item-veto authority. Even if that were possible, the President would lose the entire \$31 million and not just the four programs.

To locate the four programs, we have to look at the conference report. That explains how Congress expects the lump-sum amounts to be spent. A table in the conference report allocates the \$31 million among 60 programs, including \$92,000 for research on the blueberry shoestring virus, to be conducted in Michigan; \$260,000 for cranberry/blueberry disease and breeding in New Jersey; and \$50,000 for native wildflowers in New Mexico. Those three programs reach a grand total of \$402,000, which is a remarkably small sum to deserve mention in a State of the Union Message.

What of the money that President Reagan said went for the study of crawfish? The table in the conference report on the 60 programs identifies \$660,000 for aquaculture, and a page in the report refers to \$200,000 for "research in Louisiana." A citizen would have had to call the Appropriations Subcommittee on Agriculture to learn that the crawfish study was funded by the \$200,000.

To sum up, President Reagan claimed that with item-veto authority he could have eliminated these four programs. The fact is

that he could not have singled them out for oblivion, even with the item veto. They were never specifically mentioned in the bill he received and thus were never candidates for an item veto.

So if there are items in the bill he does not like, he can veto the whole bill, but if there are many other items that he likes, consequently he may not veto the bill. There may be items in those same bills that I do not like. But if one cannot take out the items—and we often try, where we know they are there—one has to vote for the whole bill or vote against it.

CONTROVERSIES AND CONFLICTS IN STATE COURTS

The item veto has provoked many legal disputes in State courts. Governors have had to interpret the language in the Constitution, and it should not surprise us that they interpret the language generously in order to expand executive power. Those interpretations have been challenged by legislators, citizens, and organizations, claiming that the Governors exceeded their constitutional powers. Similarly, we could expect Presidents and their assistants to interpret item-veto authority in the U.S. Constitution to accommodate the fullest extension of executive power.

State courts have had great difficulty in articulating objective legal principles in order to keep the item veto within constitutional bounds. A number of State judges, in this search for governing rules, admit that judicial reasoning is more often ad hoc and subjective. If State judges encounter problems in adjudicating these questions, we should expect Federal judges to experience similar difficulties, on a much larger scale. Do we want that kind of power vested in the Federal courts? Can they safely referee the inevitable collisions that will occur between Congress and the President? Is this a prudent use of judicial capacity and authority? Are the courts not busy enough?

The problems faced by State courts have been exceedingly difficult and politically sensitive. An early issue involved item veto authority by the Governors of Pennsylvania. They not only exercised the item veto, as provided in the State constitution, but they even exercised item-reduction. In 1899, the Governor of Pennsylvania received an appropriations bill containing a two-year grant of \$11 million for public schools. Instead of approving or vetoing the entire \$11 million, the Governor approved \$10 million and eliminated the balance. The veto message conceded that the Governor's authority "to disapprove part of an item is doubted, but several of my predecessors in office have established precedents by withholding their approval from part of an item and approving other parts of the same item."

The Pennsylvania Supreme Court upheld the Governor's interpretation. The court reviewed the history of what it considered to be legislative abuses that had undermined the Governor's veto power. In particular, it pointed to the legislative custom of combining a number of different subjects in one bill, forcing the Governor either to veto the entire measure or to accept provisions he did not want. These "omnibus" bills said the court became a "crying evil, not only from the confusion and distraction of the legislative mind by the jumbling together of incongruous subjects, but still more by the facility they afforded to corrupt combinations of minorities with

different interests to force the passage of bills with provisions which could never succeed if they stood on their separate merits. So common was this practice that it got a popular name, universally understood as log rolling. A still more objectionable practice grew up of putting what is known as a 'rider,' that is a new and unrelated enactment or provision on the appropriations bills, and thus coercing the executive to approve obnoxious legislation or bring the wheels of the government to a stop for want of funds."

All of us have different views on how active we want the courts to be. Is this an appropriate issue for Federal judges? Do they have special expertise to determine which legislative practices are acceptable and which are not? Do they even have authority to explore such questions? I personally doubt that we should open the door to such decisions by Federal judges. I fear that substantial harm would come to the independence and integrity of the judiciary if it became embroiled in these types of legislative conflicts between Congress and the President.

The Pennsylvania court did not interpret the text of the Constitution. Instead, it based its decision on the practices of Governors. Because several Governors of Pennsylvania had exercised the right to reduce items, even without express constitutional authority, the court concluded that the principle was well-established regarding "the right of the Governor in the exercise of his independent legislative judgment to approve an appropriation in part, by reducing the amount fixed by the legislature. As to that principle the executive practice must be considered as settled." This was strange reasoning, indeed!

In dissent, Justice Mestrezat acknowledged that executive construction of a statute of constitution is useful if the instrument is ambiguous. But when the constitutional language is plain, and Justice Mestrezat regarded the Pennsylvania Constitution as clear in granting the Governor item-veto power but not item-reduction power, "extrinsic circumstances and practical construction are not permitted to have any force in its interpretation."

Another early decision involved the Governor's power in Mississippi to veto conditions placed by the legislature in an appropriations bill. This case should be of great interest to Congress because we frequently place conditions, qualifications, and provisions on the funds that we appropriate. We say: "Here are funds, with the following conditions attached." Could a President, armed with an item veto, receive from Congress a conditional appropriation, delete the condition, and thereby convert the statutory language into an unconditional appropriation? I invite my colleagues to think carefully about this. The implications are both profound and disturbing.

To be concrete, would conservatives want to appropriate funds for Medicaid on the condition that Federal money not be used to pay indigent women for abortions, and then have that condition vetoed by the President? Would liberals have wanted, a few years back, to appropriate funds for Nicaragua on the condition that Federal money not be used to provide lethal aid for the Contras, only to see that condition vetoed by the President? The very conditions that made the appropriation possible, in terms of developing the necessary consensus within the legislature, would be subject to the

President's veto. Congress could retain control only by mustering a two-thirds veto in each House for the override.

The Mississippi case, decided in 1989, concerned the Governor's veto of conditions on an appropriation. Section 73 of the Mississippi constitution authorized the Governor to veto "parts of any appropriation bill." The State court ruled that this section related only to "items of distinct appropriations." It did not permit the Governor to veto unwanted legislation on appropriations bills, because that issue was addressed in section 69 of the constitution. Section 69 prohibited the engrafting of legislation on appropriation bills, "but the same may prescribe the conditions on which the money may be drawn, and for what purposes paid."

The Mississippi court refused to permit the governor to encroach upon the prerogative of the State legislature to place conditions on appropriations. When this issue resurfaced many times in the twentieth century, State courts looked frequently for guidance to the Mississippi decision. Therefore, it is important to understand the analysis of the Mississippi court:

"* * * if a single bill, making one whole of its constituent parts, 'fitly joined together,' and all necessary in legislative contemplation, may be dissevered by the governor, and certain parts torn from their connection may be approved, and thereby become law, while the other parts, unable to secure a two-thirds vote in both houses, will not be law, we shall have a condition of things never contemplated, and appalling in its possible consequences.

"Every bill of the character in question has three essential parts: The purpose of the bill, the sum appropriated for the purpose, and the conditions upon which the appropriation shall become available. Suppose a bill to create a reformatory for juvenile offenders, or to build the capitol, containing all necessary provisions as to purpose, amount of appropriation and conditions, may the governor approve and make law of the appropriation and veto and defeat the purpose or the conditions, or both, whereby the legislative will would be frustrated, unless the vetoed purposes or conditions were passed by a two-thirds vote of both houses? This would be monstrous. The executive action alone would make that law which had never received the legislative assent. And after all and despite the pragmatic utterances of political doctrinaires, the executive, in every republican form of government, has only a qualified and destructive legislative function and never creative legislative power. If the governor may select, dissect, and dissever, where is the limit of his right? Must it be a sentence or a clause, or a word? Must it be a section, or any part of a section, that may meet with executive disapprobation? May the governor transform a conditional or contingent appropriation into an absolute one in disregard and defiance of the legislative will? That would be the enactment of law by executive authority without the concurrence of the legislative will and in the face of it."

This analysis is intriguing, but how well can judges distinguish between item vetoes that are "destructive" (permissible) and "creative" (impermissible)? Is that test or guideline sufficiently objective to guide the courts, or does it invite judges to intrude their own subjective judgments on the legislative process? As I will indicate, some decisions by contemporary courts reveal considerable

uneasiness about the competence and ability of judges to adjudicate item-veto disputes with these guidelines.

LITIGATION IN THE TWENTIETH CENTURY

The question of the legislature's maintaining control over the integrity and coherence of a bill, addressed in part by the Mississippi case, arose again in the State of Washington. In 1909, the Governor vetoed the first four sections of a bill and approved the last two, one of which repealed an earlier statute. When the legislature passed the bill, the repealing section was tied in substance and logic to the first four sections. Could the Governor invoke his item veto in a manner to disrupt the internal logic intended by the legislature? The Washington court held that when the first four sections fell because of the item veto, so did the repealing section:

"In other words, when the executive approved the repealing section he approved something that his veto had already destroyed. The legislature attempted to substitute one act for another and the executive had a right to place his veto on the substitution, but he could not defeat the one act by his veto, and the other by approving the repealing clause.

"We are therefore of opinion that the attempted repeal of the act of March 4, 1909, is a nullity. * * *"

A year later, the Texas Supreme Court reviewed the freedom of the legislature to alter the structure of appropriations bills as a technique for curbing the Governor's item veto. Could the legislature eliminate some items and group them under a single appropriation? The court refused to second-guess this legislative tactic. A concurring opinion noted:

"The wisdom of grouping many items of appropriation into a single item, it is not our province to determine, even if it could be assumed that it was purposely and deliberately done so as to deny to the Governor the right to prune or cut out any part or portion of the amount appropriated, because it was within the power of the Legislature to make the appropriation in this manner, and same was not subject to any constitutional or legal objection."

Other State courts, however, have intervened when they decided that the legislature had improperly handcuffed the Governor. In 1939, a New York court held that the legislature could not take an itemized appropriations bill submitted by the Governor and pass the bill only with lump sums. The bill emerging from the legislature contained a single item of appropriation for each of the various departments or divisions of departments. The "whole spirit" of the State constitution, said the court, was "against lump sum appropriations and in favor of appropriations showing the items of expenditure."

The Mississippi and Washington courts in 1898 and 1910 had tackled two problems: the capacity of legislatures to attach conditions on appropriations, and the ability of legislatures to exercise control over the logic and consistency of bills. Both issues raise the question of "severability": the power of Governors to sever some sections of a bill without violating the integrity and purpose of what remains.

Two subsequent cases in the State of Washington sustained the Governor's veto of a section on the ground that the language was

severable. In one of the cases, a dissenting judge denied that courts possessed the ability to distinguish in an objective way between "negative" vetoes (legitimate because the matter was legally severable) and "affirmative" vetoes (illegitimate). This dispute is similar to the attempted distinction between "destructive" and "creative" vetoes in the early Mississippi case. The dissenting judge argued that the Governor's item veto was affirmative "because it actually creates a result different from that intended, and arrived at, by the legislature."

Some courts, faced with an item veto that appeared to have both negative and affirmative characteristics, opted for a balancing test. A Wisconsin court in 1940 admitted that a Governor's item veto "did effectuate a change in policy," and was affirmative or creative to that extent, but concluded that the remainder of the bill constituted "a complete workable law."

Five years earlier, the same court had upheld a Governor's item veto after concluding that the balance of the vetoed bill was "a complete, consistent and workable scheme and law." Nevertheless, a Massachusetts court struck down an item veto of a condition on an appropriation, arguing that words or phrases in a condition were not "items or parts of items" that could be vetoed pursuant to the State constitution. Decades later, the Massachusetts court reversed course to permit the Governor to delete restrictive words and phrases imposed on appropriations items, provided that the language was severable.

These cases prepare us for a Virginia case that is widely cited. In 1940, the Supreme Court of Virginia held that the Governor could not veto items that were "tied up" with other provisions. In trying to determine how to distinguish between severable and inseverable items, the court resorted to a medical analogy:

"If the Commonwealth were to determine to erect a library building and were to set apart a certain sum for structural steel, another for a heating plant, etc., and were finally to provide for a supervising architect at a stated salary, plainly the Governor could not, by veto, dispense with the services of an architect, although the sum to be paid for his services might, in a limited sense, be regarded as an item. That term, as used in the Constitution, refers to something which may be taken out of a bill without affecting its other purposes or provisions. It is something which can be lifted bodily from it rather than cut out. No damage can be done to the surrounding legislative tissue, nor should any scar tissue result therefrom."

The Governor of Virginia had vetoed seven provisions and items. The court ruled that if a provision or condition was "intimately interlocked" with other portions of the bill, the veto was not authorized by the State constitution.

State courts have issued a variety of opinions on the authority of Governors to delete sections from bills. In Washington and Louisiana, State courts permitted the Governor to sever items or sections from a bill. An Arizona court upheld the Governor's veto of certain sections in an appropriations bill because they were severable in the eyes of the court, and disallowed other item vetoes because the sections seemed inseverable. The Supreme Courts of Florida, Iowa, and Louisiana concluded that Governors may not

veto a qualification or restriction without also vetoing the appropriation to which the qualification or restriction relates. An advisory opinion by the Supreme Court of Delaware decided that the Governor's item veto applied only to items of appropriations and not to conditions.

A decision by the Supreme Court of Washington in 1980 illustrates the liberties that State courts have taken with the item veto. The Governor had vetoed approximately 45 words of a section, although the State constitution provides that the Governor "may not object to less than an entire section." In sustaining the Governor, the court announced that the determination of what constitutes a "section" is a judicial, not a legislative question. Now, imagine that.

Also extraordinary is a decision in 1988 by the Supreme Court of Wisconsin. The court held that the Governor could exercise partial veto power to veto phrases, digits, individual letters, and word fragments. He could exercise what, in effect, is item-reduction authority by striking digits from an appropriation (deleting the "1" in \$150,000), even though the State constitution grants no item-reduction authority for the Governor. He could effect all of those changes as long as what remains after the vetoes is a complete and workable law.

When State courts have appeared to side too much with the Governor, the people have resorted to constitutional amendments to restore the proper balance between the legislative and executive branches. In 1960, the Supreme Court of Florida decided that the Governor may veto an item within an item. He had vetoed a portion of an appropriation item, eliminating maximum salaries that the legislature had established for certain State officers. The ruling implied that the Governor could veto conditions or qualifications attached to an appropriation. Florida responded by amending its constitution in 1968 to prohibit the Governor from vetoing any qualification or restriction without also vetoing the appropriation related to it.

THE SEARCH FOR JUDICIAL STANDARDS

The last two decades mark an extraordinary increase in the number of State court cases on the item veto. After the first item veto decision in 1893, over the next 77 years (up to 1969), there were about 60 decisions. There have been that many in just the past two decades. Obviously, State courts have been unable to establish clear principles to resolve item-veto disputes. Of the issues that continue to vex the State courts, one of the most frequent issues is the difficult one of vetoing conditions in appropriations bills. Are these conditions intimately "tied to" the appropriation, and therefore inseverable, or may they be eliminated by the Governor?

State judges have had to reconsider some of the earlier doctrines that attempted to distinguish between destructive and creative vetoes (or negative and affirmative vetoes). A Washington court in 1977 held that the Governor's 14 vetoes of items and sections in a bill were impermissible because the resulting bill, after the vetoes, created a result unintended by the legislature. The item vetoes were, therefore, "affirmative" and "creative" in effect.

Nevertheless, a Wisconsin court in 1978 agreed that the Governor may delete provisos or conditions in an appropriations bill "so

long as the net result of the partial veto is a complete, entire, and workable bill which the legislature itself could have passed in the first instance." A dissenting judge objected to the reasoning and doctrines used by State courts for decades to determine the scope of item-veto power. He called attention to the attempt by one Governor to strike the digit "2" from a \$25 million bonding authorization bill, and noted that advisors to a recent Governor reportedly considered deleting the first letter "t" from the word "thereafter" to make it "hereafter," thus changing the effective date of a liquor tax increase." The judge then took aim at the dubious legal principles used by State courts:

"Only the limitations of one's imagination fix the outer limits of the exercise of the partial veto power by incision or deletion by a creative person. At some point this creative negative constitutes the enacting of legislation by one person, and at precisely that point the governor invades the exclusive power of the legislature to make laws.

"* * * In the scheme of our constitution, the governor is to review the laws and not to write them. He is not, by careful and ingenious deletions, to effectively 'write with his eraser' and to devise new bills which will become law unless disapproved by two-thirds of the legislators who are elected by the people of the state.

"* * * every veto has both an affirmative and a negative ring about it. Every veto necessarily works some change of policy, and in a sense partakes of legislating. Here lies the difficulty the majority confronts in saying precisely where the proper sphere of the executive ends and that of the legislature begins.

"The majority is rightfully wary of the elusive tests enunciated in some other jurisdictions. To hold that the exercise of the partial veto power may not have an 'affirmative,' 'positive' or 'creative' effect on legislation, or that the veto may not change the 'meaning' or 'policy' of a bill, as some courts elsewhere have done, would be to involve this court in disingenuous semantic games. While these tests may be appealing in the abstract, they are unworkable in practice. Every veto may be perceived in affirmative or negative terms, and as either conforming to or defying the general legislative intent, depending upon the observer's perspective. These tests are inescapably subjective. Without an objective point of reference, this court would be reduced to deciding cases upon its subjective assessment of the respective policies espoused by the legislature and the executive, an unseemly result which would foster uncertainty in the legislative process. More importantly, such a result would defeat its own purpose; the judicial department may no more assume the proper functions of the legislature, or interfere with their discharge, than may the governor."

In 1984, a Washington court upheld the Governor's veto of a section and all references in the bill to the section, but also announced that it was abandoning the affirmative/negative test it had used to decide the constitutionality of item vetoes. The court dismissed that test as unworkable, subjective, and an intrusion by the judiciary into the legislative branch: "There are no standards to predict whether a veto will be perceived by the court as affirmative or negative." In future disputes, the court warned, the check on item vetoes would have to be legislative overrides, not judicial review. A

dissenting judge explained that the majority's decision to abandon the affirmative/negative test resulted "in large part from the fact that the Governor's veto here was clearly affirmative in nature."

Scholars who analyze the efforts of State courts to monitor the exercise of item-veto power are also troubled by the lack of objective judicial tests. In a recent law review article, Louis Fisher and Neal Devins suggest that Federal courts, "like their State counterparts, might be unable to develop a coherent doctrinal approach to the item veto." Because of the difficulties inherent in any attempt to draw "bright lines" for questions of the budgetary process, they conclude that the Federal judiciary is poorly designed as an institution of government to referee item-veto collisions between Congress and the President:

"Federal court interpretations of a presidential item veto might have the unintended result of transforming the judiciary into arbitrators of the federal budgetary process. In light of state court decision making, differences between the state and federal budgetary process, and federal court rulings that have affected the balance of powers, the prospect of such fundamental decisions being made in the courts is unsettling. The judiciary is the branch least suited to mediate the budgetary process."

ITEM VETOES AS A DEFICIT-REDUCTION TOOL?

Proponents of the item veto suggest that in this exercise to "pare away the waste," the President could make a significant cut in the Federal deficit, which is still in the range of or was in the range of \$200 billion a year. There have been efforts to use quantitative techniques to demonstrate the relationship between item-veto authority and budget constraint.

There is no way to prove, with statistics, whether the item veto in the hands of the President would be a useful weapon to reduce the Federal deficit. First, the use of the item veto by the Governors is not necessarily evidence of budgetary control. It might indicate the opposite. If a Governor maintains adequate control over the budgetary process, there is no need to use the item veto. The Governor will be satisfied by the accommodations reached between the legislative and executive branches. "A politically astute Governor will use the item veto with care and may decide that his political objectives are best achieved by not using it at all." A lack of item vetoes may therefore coincide with good budget control. On the other hand, a Governor who loses control of the legislative process and has to resort to item vetoes may, in the end, exercise less control over spending.

Second, the threat of the regular veto, and the legislative changes it brings about, may be far more influential in constraining spending than the use of item vetoes after-the-fact. But there is no way to measure the effectiveness of these threats, even though they lead to substantial alterations in bills that pass through the legislative body.

Third, the "savings" that result from an item veto may merely offset the money added by legislators in contemplation of an item veto. A study of the veto process in Pennsylvania concluded: "When a legislator, even those opposed in principle to an appropriation, is reasonably certain that the Governor will slice it down to more

moderate size, he is tempted to bolster himself politically by voting large sums of money to a popular cause." After a study of politics in Michigan, a writer said that the item veto "has encouraged their constituents by voting for appropriations far in excess of anticipated revenues thus forcing the Governor to make the inevitable reductions and incur the wrath of the interests adversely affected."

Should we expect something different in Congress? Those who advocate the item veto say that it is necessary to control "log-rolling." It is my judgment that the availability of an item veto for the President would make log-rolling much worse. There would be less legislative discipline. How convenient it would be for Members of Congress to add spending for special interests and let the President and budget officials take the heat for making the cuts. When all the cuts have been made, is it reasonable to conclude that we would be better off in terms of budget control and political responsibility? Not at all.

Senator MARK HATFIELD, who served as Governor of Oregon from 1958 to 1966, testified in 1984 on his experience in State politics. He told the Senate Committee on the Judiciary:

"We also know that the legislatures in States which have the line-item veto routinely 'pad' their budgets, and that was my experience, with projects which they expect, or even want their Governors to veto. It is a wonderful way for a Democrat-controlled legislature, that I had, to put a Republican Governor on the spot: Let him be the one to line-item these issues that were either politically popular, or very emotional."

Fourth, a persuasive case can be made that the item veto, at the Federal level, might even lead to an increase in spending. Presidents and their executive officials could unleash the item veto as a means of controlling the votes of Members of Congress. The President could call a Senator or a Member of the House of Representatives and say: "I am being advised to item veto a project in your State (or district) that I know you have advocated for many years. Analysts in OMB tell me that the project has insufficient merit and should be eliminated. I am continuing to study it. While I have you on the phone, I wonder if I can count on your vote for the military assistance plan I have in Central America. Can you help me out?"

Suppose the President had said to Senators, or said to the Senator presently presiding over the Senate, the Senator from Illinois—who presides over his body with a degree of dignity and skill and fairness that is so rare as a day in June—had said to that Senator, "I want you to vote for Clarence Thomas."

Or he had said to the Senator from West Virginia, "I want you to vote for Clarence Thomas. How about it?"

"You know, there is an item in the appropriations bill that some of the people in the OMB have advised me to veto. I kind of hate to veto your item. How are you going to vote on Clarence Thomas?"

Where goes the independence of the Senator in voting on a nomination? Or in voting on a treaty? The President says, "Can you help me out?"

The implication is, "I will help you out if you can help me out. If you don't vote for me, I will use my veto pen."

No one even has to read between the lines to see that an accommodation might be worked out, with Members of Congress getting the projects they want, and the President getting the spending program he wants. Both sides win and Federal outlays climb upward. In addition to the use of the item veto for spending priorities of the President, it could be used as leverage to gain support of an embattled nominee, a threatened treaty, or some other executive goal that is entirely unrelated to budgeting.

Executive officials have been fairly forthright in admitting that the main effect of an item veto would not be to save money but to advance Presidential interests over congressional interests. The Economic Report in 1985 concluded that the item veto "may not have a substantial effect on total Federal expenditure. The experience of the States indicates that per capita spending is somewhat higher in States where the Governor has the authority for a line-item veto * * *." However, it could be used by the President "to change the composition of Federal expenditure—from activities preferred by the Congress to activities preferred by the President." In previous testimony, administrative officials have told congressional committees that the item veto would be used to delete funds that Congress had added to the President's budget.

Mr. President, there is little empirical or comparative evidence to show that an item veto actually works to curtail spending in Government. Its history and experience at the State level indicate that its use as an instrument to promote partisan and executive interests has more often than not been the motivation for its application, and that such usage is most likely to occur where the legislative is, in whole or in part, controlled by the party that is in opposition to the party of the Chief Executive. That most of the signs point in such a direction can be gleaned from articles and surveys conducted by various political science analysts, professors, and others whose knowledge and competence constitute valuable insights bearing upon the subject of the efficacy of the item veto as a means of fiscal control. One such article appeared in 1985 under the title: "The Line-item Veto in the States: An Instrument for Fiscal Restraint or an Instrument for Partisanship?" Its coauthors were Glen Abney, professor of political science at Georgia State University, and Thomas P. Lauth, associate professor of political science at the University of Georgia.

The article by Abney and Lauth examines the item veto at the State level to determine whether it is primarily used as a tool for fiscal restraint or as a tool for the advancement of political partisanship. That there exists a definite linkage between partisanship and the item veto is clear, from a reading of the article. Whether or not such a veto is an effective instrument by which controlled and efficient spending can be assured is not only far from clear but is also dubious. The conclusions reached by Professors Abney and Lauth should be instructive to any Senators who may be persuaded by the argument that the Federal Government should follow the lead of 43 States in granting item veto power to the chief executive:

"Is the line-item veto used as an instrument for fiscal restraint or an instrument for partisanship? Often, it is a partisan instrument that may have the result of promoting fiscal restraint. Of course, any time the item veto is used, a state's budget is reduced.

However, reductions are not the same as efficiency. Indeed, reductions can be inefficient. Furthermore, efficiency is a relative term. What may seem an extravagance for one person may be seen as a necessity by another. It is easier to portray the item veto as an instrument of the executive increasing his or her legislative powers rather than as an instrument for efficiency.

"Does the item veto encourage fiscal responsibility? The line-item veto has been around in most states for a considerable time. Legislatures in states with it do not seem more fiscally responsible than legislatures in other states. Of course, our data are not longitudinal, and we cannot measure change following the introduction of the veto. However, given its partisan use, the item veto probably has had minimal effect on making legislatures or state government fiscally more restrained.

"Because the president does not have the line-item veto, we can only speculate about how it might be used if established in the future. However, based upon state experiences with the item veto we anticipate it would enhance the president's ability to deal with the Congress on matters of a partisan nature, but it is not likely to have much impact on such fiscal matters as the size of the deficit."

Another illuminating article, based on a study of gubernatorial item-veto use in Wisconsin, was published in 1986 by James J. Gosling, vice chancellor of the University of Wisconsin-Extension and faculty member of the Robert M. LaFollette Institute of Public Affairs on the Madison campus. Dr. Gosling's study, described in an article titled "Wisconsin Item-Veto Lessons," suggests that the item veto in Wisconsin has been utilized mainly as an instrument of "policy choice and partisan advantage rather than of fiscal restraint." Pointing out that the Wisconsin constitution and State laws permit a gubernatorial veto, not only of the appropriations in a spending bill but also permit a partial veto of "statutory or session law language" therein, Dr. Gosling states that Wisconsin's Governors have used the item veto with "relative frequency," and that such authority invites "creative writing" simply by selectively striking any word or letter within an appropriations bill. Gosling states that, "With the swipe of a veto pen, a proscription can be transformed into a prescription—a 'shall not' easily turned into a 'shall.'"

Based on the 12-year study, Dr. Gosling found that, "86 percent of the line-item vetoes affected statutory or session law exclusively, involving no veto of appropriations, while only 14 percent directly affected appropriations." He further stated that, although some of the vetoes of statutory law were judged to have produced a fiscal effect, even though no appropriation was directly vetoed, "72.1 percent of the item vetoes had no fiscal effect at all." Dr. Gosling made this further comment concerning the impact and effect of the 542 item vetoes exercised by Wisconsin Governors between 1975 and 1985:

"On the revenue side, such vetoes modified state law governing taxes or fees. On the expenditure side, such vetoes affected projected budgetary outlays by eliminating new programs approved by the legislature, changing eligibility standards for existing programs, modifying mandated services, reducing the state's percentage of support for local assistance programs, or redefining the cost

basis on which state financial assistance to local governments is calculated.

Gosling's study concluded that:

"In summary, the item veto, as employed by Wisconsin governors, appears to have been used primarily as a tool of policy making and partisan advantage rather than of fiscal restraint.
* * *

"While item vetoes generally result in budget reductions, are they employed primarily to cut costs or to effect desired policy changes which may or may not have accompanying cost reductions? As this study suggests, policy considerations, colored somewhat by partisanship, appear largely to guide gubernatorial item-veto choice. * * *

"The item veto appears to have been used disproportionately to alter unacceptable policy and to further partisan interests."

An interesting example of partisan use of a gubernatorial item veto can be found on page 47, Appropriation Acts of the General Assembly, 1941. When the 1941 appropriation bill produced a conflict between the Republican Senate and the Democratic House in Pennsylvania, the argument was tossed into the lap of Republican Governor James, who had the power not only to veto items but also to reduce them. The House felt the sting of the Governor's veto after it voted to appropriate to the department of commerce an amount 17 percent less than the Governor had recommended in his budget. Governor James retaliated by reducing the appropriations for both the department of the auditor-general and the treasury department to points 17 percent below his budget suggestions; these were the only two departments headed by Democrats.

As to the implications concerning a presidential item veto, I again quote Dr. Gosling:

"If the item veto is primarily employed for policy and partisan purposes at the federal level, it could become a coveted tool for the President to bring congressional priorities more in line with those of the President and executive branch. At the hands of an ideologically motivated President, it could be used to eliminate (or reduce, if the approved form of item veto permits) appropriations for programs that are antithetical to the policies of the administration. Unacceptable legislative riders could likewise be excised. * * *

"In conclusion, a presidential item veto is more likely to give the President one more resource to gain partisan leverage toward pursuit of the administration's policy agenda."

We should think of the item veto not as an instrument for fiscal restraint but rather as a means by which the President would control Congress. Studies of State spending, as have been shown, yield a similar conclusion. In general, the item veto is not used in the States for budget savings. It is more often used for political and partisan benefit.

Finally, I have already pointed to the dramatic differences between the Federal appropriations process and the State appropriations process. States itemize their appropriations bills. For very good reasons, Congress does not. If Congress were to decide to appropriate even more by lump-sum rather than by items, clearly there would be nothing for the President to item veto. Under these

conditions, what level of savings through the item veto could we expect?

Mr. President, through these comments today, I have attempted to explain why it would be seriously misguided for the National Government to borrow the item veto from the States. The State and Federal systems of government, their budget processes, and their history and practices are fundamentally different. How well the item veto actually works in the States has been analyzed by many people reaching quite different opinions. The benefit and utility of the item veto at the State level are subject to endless, inconclusive debate.

What is more clear is the inapplicability of the States' item veto to the Federal Government. The Governors of most of the States are given item veto authority by their State constitutions. But State constitutions and the Federal Constitution are two very different matters.

I say again, lay down the Constitution of your State. Lay it down beside the Federal Constitution. Compare the two.

The needs, functions, responsibilities, and powers of a State government differ significantly and critically from those of the National Government. These are two different spheres, similar in some respects, perhaps, but immensely dissimilar in others—so dissimilar that any attempt to justify the item veto at the national level by citing the State example is an inane exercise in the juxtaposition of incongruous concepts. There is simply no point in quixotically tugging at irrelevant windmills. Transfer of this instrument to the President would not yield budgetary restraint. Instead, it would create political friction of a destructive character, lead to less accountability by the legislative and executive branches, and place upon the judiciary a burden for monitoring the scope of the item veto but without clear standards and guidelines for the courts. In the end, our political institutions would be weakened and our resolve toward budget responsibility impaired. This is not a step to be taken lightly. It is not a step to be taken at all.

I was somewhat amused when I heard some of the Governors talk about how they balance their budgets, how they have to balance their budgets. They have the line-item veto, they say. They have the line-item veto. They balance their budgets. What they do not say is how much Federal money they get to help them balance their budgets. They are right in along with everybody else for the handout waiting for their check to come in.

They do not have to be concerned about the national defense. They do not have the responsibility for the national defense.

Mr. THURMOND. Mr. President, I rise today to support the amendment offered by the able Senator from Arizona, which would give the President statutory line-item veto authority. Under this approach, the President is authorized to rescind all or part of any budget authority submitted to him.

I am pleased to be a cosponsor of this amendment, as well as S. 196, the underlying line-item veto bill.

Each year during the budget debate, much discussion is focused on ways to enhance revenues. The Congress must address runaway spending if we are truly going to establish a sound fiscal policy for this Nation.

Mr. President, the Office of Management and Budget projects the national debt to exceed \$4 trillion by the end of fiscal year 1992 and \$4.5 trillion by the end of fiscal year 1993. The payment on the interest of this national debt is the second largest item in the budget. Our Federal deficit exceeded \$150 billion for fiscal year 1989, \$220 billion for fiscal year 1990, \$268 billion for fiscal year 1991, and is projected to exceed \$399 billion in fiscal year 1992. This must stop. We must take strong, disciplinary action to ensure fiscal responsibility.

The Congress regularly enacts appropriations measures, totaling billions and billions of dollars. Unfortunately, items are often tucked away in these bills representing millions of dollars that would have little chance of passing on their own merit. The President's hands are tied. He has no discretion to stop these unnecessary expenditures and must approve or disapprove the bill in its entirety.

Presidential authority for line-item veto is a badly needed fiscal tool which should provide a valuable means to reduce and restrain excessive appropriations.

Forty-three Governors currently have, in one form or another, the power to reduce or eliminate items or provisions in appropriation measures. Mr. President, I enjoyed that power as Governor of South Carolina and I saved South Carolina from many unnecessary expenditures. Surely, the President should have the same discretionary authority that 43 Governors now have to check unbridled spending.

I have been a supporter for a constitutional amendment to provide for a line-item veto. In the 101st Congress, the Senate Judiciary Committee, of which I am ranking member, approved similar legislation which proposed a constitutional amendment ensuring the President's line-item veto authority. I reintroduced this legislation in the 102d Congress and it is pending in the Judiciary Committee. Although I much prefer a constitutional amendment providing for a line-item veto, I am pleased to support this statutory, middle-ground approach.

Mr. President, it is my hope that this Congress will swiftly approve line-item veto and send a clear message to the American people that we are making a serious effort to get our Nation's fiscal house in order.

I urge my colleagues to support this amendment.

Mr. WOFFORD. Mr. President, I support this bill. Our industrial base—the heart of our Nation's economic strength—is eroding. As our competitors have worked to develop technological innovations—innovations that often originate here in the United States—into products and markets and jobs, our domestic manufacturers have to work even harder to remain competitive.

Research and development in this country is excellent. But we have to make it easier for companies to take the next step, to develop their ideas into products, which will create jobs and benefit workers here in America. The original National Cooperative Research Act, passed in 1984, has shown us that the joint venture approach works: since its enactment, over 150 research partnerships have brought advances in sectors ranging from high technology to steelmaking.

It's time to extend this successful program to manufacturing. We need to let our companies work together, to pool their resources to promote the manufacture of new products here in the United States. Our work force, the most productive in the world, is up to the challenge. Let's pass this bill and make sure that American ideas lead to American jobs.

ENHANCED RESCISSION POWER MEANS ENHANCED EXECUTIVE POWER

Mr. BYRD. Mr. President, the title of this speech is "Enhanced Rescission Power Means Enhanced Executive Power." I will speak just a little while about the proposal to give to the President the power of enhanced rescissions.

Mr. President, I have not had a chance to study the amendment carefully. Just a cursory reading of it, though, is enough. To those Members of both Houses who may be so myopically generous and accommodating to any President as to want to give him an item veto, this is their chance, but do not count me in. The item veto would give to any President loaded dice, and I, for one, will not play in that game.

I heard a Senator say recently that according to a Gallup poll "some 70 percent" of the American people support the item veto. This is understandable. The average citizen who is concerned about spiralling budget deficits cannot be expected to understand the intricacies of appropriations bills. He is worried about the economy, about holding a job or getting another job, and to him the suggestion that the President be authorized to strike so-called "pork barrel" items—one man's pork may be another man's sustenance—from bills passed by Congress has an appeal. But Members of the House and Senate who peddle the item veto as a cure for deficits ought to know better.

Can it be that while voting on appropriations bills every year they have never taken the time to leaf through one of those bills? Or are they just engaging in demagoguery by using the item veto to avoid tough political decisions and knowingly playing upon the ignorance of honest souls who are uninformed concerning the complexities of the appropriations and budgeting process?

Unlike State legislatures, Congress does comparatively little itemizing in its appropriations bills. Consequently, there are relatively few "items" for a President to strike. This point can be demonstrated by examining the Energy and Water Development Appropriations Act for fiscal year 1990. One will note therein that Congress appropriated mostly by lump-sum amounts, not by items. For example, under "General Investigations," there is a lump sum of \$131,086,000 for surveys, detailed studies, and plans concerning rivers and harbors, flood control, shore protection, and related projects. The paragraph contains some earmarkings of funds for eight projects totaling \$1,850,000. In the remaining section, seven projects are specified, amounting to \$1,265,000, making a grand total of \$3,115,000 for the fifteen earmarked projects which would be stricken out of the act by an item veto. What about the remaining \$127.9 million? How is it to be spent? The Act signed by the President does not say. The answer is to be found in the conference report, which identifies over 350 items, which could not be elimi-

nated by a Bush item veto, because conference reports do not go to the President for his signature. Even the 15 specific projects listed in the act signed by President Bush could just as easily have been identified by Congress in the conference report rather than in the act, thus leaving the President with only the lump sum to veto or to approve. Thus, for Senators to maintain that arming the President with item-veto power would curtail spending, is vain posturing.

Take another example from the same fiscal year 1990 Energy and Water Appropriations Act. Under "Operation and Maintenance, General," \$1,377,504,000 was appropriated. Only four specific amounts are listed with projects earmarked for California, Minnesota, Nebraska, and South Dakota, totaling \$8.9 million, which could be subjected to a line-item veto. What about the remaining \$1,368,604,000, none of which is set forth in discrete items? Again, the answer to the question can be found in the conference report, which the President cannot veto. That report identifies more than 700 projects, but the report does not go to the President for his signature or approval. Thus, if the President had had the power to veto separate items, he could have vetoed only four items in the Act, under "Operation and Maintenance, General," and they would have amounted to a total of only \$8.9 million, or six-tenths of 1 percent (0.6) of the account! Can anyone seriously believe that giving an item veto to the President would be an effective tool in eliminating budget deficits? Let's stop trying to fool the people.

The item veto operates differently at the State level, because items are set forth discretely in the bills presented to the Governor. But at the Federal level, as I have already demonstrated, funds are appropriated mostly in lump-sum amounts, which allow administrative officials and executive branch personnel some flexibility and discretion in utilizing the funds more efficiently. In moving money around in large accounts, the agencies are required to report to Congressional committees and secure their approval on any "reprogrammings."

Officials in the Reagan administration claimed that the framers of the Constitution anticipated that Congress would pass separate appropriations bills for discrete programs rather than bills that would encompass a variety of related or unrelated matters. Those Reagan administration spokesmen displayed an appalling ignorance of history. In the first two Congresses, the general appropriations were made in single bills. The first appropriations bill of record, in 1789, appropriated \$639,000, as follows:

H.R. 32, an Act of 1789:

Civil list	\$216,000
Department of War	137,000
Board of Treasury	190,000
Pensions to invalids	96,000

Total, H.R. 32	639,000
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H.R. 47, an Act of 1790, appropriated \$551,491.71, for the following:

H.R. 47, An Act of 1790:

Civil list	\$141,492.73
Department of War	155,537.72

Pensions to invalids	96,979.72
Expenses of Congress	(Such sums)
Contingent charges	10,000.00
Treasury	147,169.54
Jehoiakim M Toksin	120.00
James Mather	96.00
Gifford Dalley	96.00

Total, H.R. 47	551,491.71
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H.R. 120, an Act of 1791, appropriated \$740,232.60, as follows:

H.R. 120, an Act of 1791:

Civil list	\$299,276.53
Department of War	390,199.54
Treasury	50,756.53

Total, H.R. 120	740,232.60
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The claim of Reagan administration officials that, in the earlier years, Presidents were able to veto or sign separate appropriations bills for discrete programs or activities, in accordance with the anticipation of the Constitutional Framers, was without a grain of truth, as evidenced by the kind of bills enacted in 1789, 1790, and 1791, shown above. George Washington, who had presided over the Philadelphia Convention, later stated, when he was President: "From the nature of the Constitution, I must approve all parts of a Bill, or reject it in toto." Moreover, the Members of the First Congress included many of the framers who had attended the Philadelphia Convention. Evidently, they did not anticipate that Congress would pass separate appropriations bills for discrete programs, as Donald Regan, President Reagan's secretary of the treasury, maintained. As will be noted, each of the three Acts appropriated funds for the Civil List, the War Department, and the Treasury. Pensions to invalids, and other items were included, as in H.R. 120, of the \$390,199.54 appropriated for the Department of War, \$100,000 was earmarked for defraying the expenses of an expedition against certain Indian tribes, and \$87,463.60 was earmarked for pensions to invalids. There were also earmarks in H.R. 47. The acts also contained authority for the president to authorize additional funding from customs receipts. Consequently, the figures I have shown do not accurately reflect the entire cost of Government operations for the 3 years.

Authorizing the president to veto "items" in appropriations bills may be a legitimate topic for debate, but the issue should not be obscured by misconceptions and glib assertions that have no basis in facts. Before undertaking major surgery on the appropriations process, I submit that we must first understand it. Perhaps we will then stop kidding ourselves into believing that the item veto is the desideratum that its political hawkers claim it to be.

Mr. President, during the past century, the item veto proposal has been offered in Congress as a constitutional amendment many times but it has rarely received any serious consideration. More recently, there has been an escalation of attempts to give the President item veto authority by statute. I submit, however, that the President cannot be given the item veto by statute and that, if such a statute were enacted, it would be ruled unconstitutional by the courts.

The U.S. Constitution, in article I, section 1, vests all legislative powers in Congress:

"All legislative Powers herein granted shall be vested"—

Not "may be vested"—

"* * * in a Congress of the United States, which shall consist of a Senate and House of Representatives."

Article I, section 9, paragraph 7, vest the appropriations power in Congress:

"No money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law; and a regular Statement and Account of the Receipts and Expenditures of all public Money shall be published from time to time."

The two foregoing sections in article I, clearly and unequivocally place the appropriations power in Congress and only in Congress, for if appropriations can only be made by law and only Congress has power to make law, then only Congress can make appropriations. To argue, therefore, that any transfer to the executive of the congressional power over appropriations can be accomplished by statute is but an excursion into Alice-in-Wonderland fantasy. A power which has been vested in Congress by the Constitution cannot be taken away, transferred, or given away by statute. I would be ashamed as a United States Senator, to demonstrate my ignorance of the Constitution by maintaining that such could be done. It can only be done by an amendment to the Constitution, and I do not view that likelihood as an immediate threat.

What I consider as a greater danger to Congress' power over the purse, however, is a proposal making the rounds of late that is commonly referred to as "enhanced rescissions." This is a Trojan horse, a back-door approach to the item veto and, in effect, a super item veto. That it indeed might be capable of achievement by statute should be very disquieting to all who view the power over the purse as the master balance-wheel in the constitutional mechanism of checks and balances.

When Congress passed the Congressional Budget and Impoundment Control Act of 1974, it was responding to a perceived shift of power to the President, demonstrated by the refusal to spend appropriated funds by the executive during the Lyndon Johnson and Nixon administrations. The act was designed to protect Congress' power over the purse, and to protect the constitutional balance between the executive branch and the legislative branch. It required the approval by both houses before any Presidential rescissions of appropriated funds could become effective. Congress having passed an appropriations bill, and the President having signed it into law or having let it become law without his signature, his rescissions could only prove successful if Congress acted favorably to approve them. If Congress did nothing within a prescribed 45-day period, the budget authority proposed by the President to be rescinded had to be made available for obligation. Under "enhanced rescissions," however, the situation would be reversed and the burden would be shifted. If Congress did nothing or were not to succeed in disapproving the President's proposed rescissions, then the budget authority would not be made available for obligation.

Mr. President, on June 6, during the debate on the "Americans with Disabilities Act of 1990," an amendment was offered to grant

to the President the power to reduce budget authority. The amendment fell because a motion to waive a budget act point of order failed to attract the necessary 60-vote majority. The amendment would have added to the Congressional Budget and Impoundment Control Act of 1974 a new title: "Title XI—Legislative Line Item Veto Rescission Authority." Under the amendment, the President could, within 20 calendar days (excluding Saturdays, Sundays, and holidays) after the date of enactment of a regular or supplemental appropriations bill or continuing resolution, notify Congress by special message of his decision to rescind all or any part of any budget authority contained therein.

The President could also notify the Congress of such rescissions by special message at the time he submits his budget message to Congress, provided such rescissions had not been proposed previously for that fiscal year. In other words, following the beginning of the new fiscal year on October 1 in a given year, the President could wait until he presents his new budget the following January, at which time he could propose rescissions of budget authority contained in all previously enacted 13 regular appropriations bills and supplementals if no such rescissions had been proposed previously for that fiscal year which began three months earlier.

Such budget authority so rescinded would be deemed canceled unless a bill disapproving the full rescission were to be enacted by Congress and presented to the President within 20 calendar days of session for his approval or disapproval. The President would have an additional 10 days (exclusive of Sundays) in which to sign or veto the rescission disapproval bill, which must disapprove the rescission "in whole."

One of my favorite old-time songs and fiddle tunes is "The Roving Gambler." But one does not have to be the roving gambler to know that to give to any President an enhanced rescissions power is to hand the President a stacked deck to be used against the elected representatives of the people and against the people themselves.

The difficulties that would confront Congress are obvious. First and foremost, for any projects, programs, or activities on a President's selective hit list, Congress in all likelihood would have to produce the votes from three to four times before such budget authority could be finally locked in. As a scenario, for example, the President vetoes an appropriations bill but the Congress overrides the veto and the bill becomes law, after which the President rescinds part of the budget authority in the act, and Congress then passes a bill disapproving the rescissions; the President then vetoes the disapproval bill, and Congress attempts to override the veto. In such a not-unlikely scenario, not only would Congress have voted four times on the same appropriations items, but a two-thirds majority in both Houses would also have been required on two of the votes in order for Congress to succeed in nailing down the budget authority.

Obviously, enhanced rescissions authority for any President would give him a "heads, I win-tails, you lose" advantage over the Congress. As we all know, throughout the 200 years of our history, very few Presidential vetoes have been overridden, and that is because the President needs only one-third plus one of the Members

voting in either House to have his veto sustained. Yet, from time to time, Congress has been able—on a matter of national significance—to muster the necessary two-thirds to override. But if the President were to be given an enhanced rescissions authority, it would be necessary for Congress to marshal a two-thirds majority in both Houses, not once but twice in order to enact any budget authority to which he objects, and the usual situation would involve a veto of one or more items that could be of importance only to a single region or a few States—or even only to a single State or congressional district. Under such circumstances, the already great odds favoring sustention of a President's veto would be increased exponentially. As the geographical area directly affected by such a veto would, in most cases, be less than nationwide, fewer Members in both Houses would be interested in overriding the veto. Add to this the fact that in the House, where representation is based upon population, the possibility already exists for a mere handful of States, in a given situation, to thwart the will of the majority in both bodies. Take, for example, five States: California, with 45 votes; New York, with 34; Texas, 27; Pennsylvania, 23, and Illinois, with 22 votes; these five States have a total of 151 House votes—more than one-third of the membership. Banded together, these five States alone can thus sustain a presidential veto of a bill that is important, in varying degree, to the other 45 States.

Conversely, a minority of States with large populations can produce a two-thirds vote to override. It is theoretically possible for 16 States—less than one-third of the total number of States—to override a Presidential veto in the House. The following tabulation of 16 of the larger-populated States shows a total of 293 votes—three votes more than the 290 needed to override when all 435 members cast their votes: California, 45; New York, 34; Texas, 27; Pennsylvania, 23; Illinois, 22; Ohio, 21; Florida, 19; Michigan, 18; New Jersey, 14; Massachusetts, 11; North Carolina, 11; Indiana, 10; Virginia, 10; Georgia, 10; any two—Wisconsin, Missouri, or Tennessee—with 9 each, 18; for a total of 293.

The point I am making is that the less-populated States would find their collective strength in the House significantly diminished from the standpoint of overriding a veto in a situation where only a region or a few States were impacted adversely by a veto. For instance, the six States of Maine (2), New Hampshire (2), Vermont (1), Massachusetts (11), Rhode Island (2), and Connecticut (6), in the Northeast collectively have only 24 votes in the House—a substantial contribution to an override on a matter of nationwide significance, and most Presidential vetoes are in regard to matters of importance nationally. But the collective members of the same six States would find it extremely difficult, if not impossible, to interest two-thirds of the total House membership in overriding a veto of budget authority of importance only to the Northeast region.

With enhanced authority to rescind budget authority, the President could be expected to exercise the veto power more often because he would know that if a veto of an entire bill were not sustained, he could come back with his new rescission power and, in effect, veto the separate and specific budget authority items that he finds particularly objectionable, with little chance that both Houses would pass a disapproval bill of importance only to a few States or

a few members, and with an even less likelihood of an override of his veto of a disapproval bill of such limited interest to the overall membership of both Houses. Enhanced rescission authority would, therefore, provide an enormous incentive to any President to follow a divide-and-conquer policy, and he would virtually be assured of success in totally dominating the appropriations process. Such an expansion of executive power, with a corresponding reduction of the power of the legislative branch, would effectively emasculate the balance between the two branches. I should think that even Alexander Hamilton, who was a leading proponent of tilting the balance toward a strong executive, would gag at the thought of swallowing such a dose of Presidential power.

Moreover, Congress would find it necessary to spend a greatly increased amount of time and energy in enacting budget authority to meet the needs of the Nation as viewed by the elected representatives of the people. The tensions between the executive and legislative branches would rise to the boiling point as Congress found itself more and more subservient to an aggressive and politically partisan President. The Nation would suffer the consequences of such a power shift, and the constitutional system of checks and balances would be reduced to rubble. With the occupant of the oval office in possession of such swollen power, the chief executive would not only become the chief legislator; he would also be a king, in everything but name only. And what's in a name, when a pickle by any other name smells just as sour?

The proponents of enhanced rescission power for the President argue that his current rescission authority, limited as it is, has met with little success because Congress, they say, has been unresponsive to his requests. The facts are otherwise.

Mr. President, I will put into the RECORD a table that will show that for the fiscal years 1974 through 1992, the Presidents during those years proposed for rescission, \$61,635,857; total amount of proposals enacted by the Congress, of those that the President requested, \$19,557,337,366; and an additional amount of rescissions initiated by the Congress of \$36,210,728,246.

Another way of looking at it, 1974 through fiscal year 1992, as of February 26, 1992, the number of rescissions proposed by Presidents was 920; number of Presidential proposals accepted by Congress 324; number of rescissions initiated by Congress on its own, 351.

Mr. President, I ask unanimous consent that that table be printed in the RECORD at the conclusion of this speech.

The PRESIDING OFFICER (Mr. WELLSTONE). Without objection, it is so ordered.

(See exhibit 1.)

Mr. BYRD. Mr. President, the rescission authority which now exists works well. Congress has not ignored Presidential rescission proposals; and, in fact, as I have stated, Congress has enacted a great number of rescissions on its own.

Another aspect of enhanced rescission authority that concerns me is the leverage that such authority would give the President over the Nation's priorities.

The President is presently limited to a choice of either vetoing the whole bill or letting it become law with or without his signa-

ture. If the item veto power were to be given to the President—which, I believe, could only be accomplished by an amendment to the Constitution—Congress could limit the effectiveness of that power simply by showing fewer items and more lump sums in an appropriations act. However, with the grant of enhanced rescissions power to the President—which can possibly be achieved by statute—he could sign the appropriations act into law, following which he could, for all intents and purposes, effectively accomplish the equivalent of a veto of a part or parts of the act by rescinding whatever budget authority he found objectionable, thus placing the burden on the Congress to pass a new bill reinstating the rescinded authority, plus, in the event of a Presidential veto of that bill, an additional burden of producing a two-thirds vote in both Houses to “screw it to the sticking place.”

Surely, Congress would have to be infected with a collective madness to seriously contemplate handing to any President, Democrat or Republican, such power—let Mr. Clinton get in the White House; let Mr. Tsongas get in the White House; let Mr. Brown get in the White House. They are Democrats. If this Senator from West Virginia is here, let them try getting enhanced rescissions or the line-item veto through this Senate.

I will do everything I can to stop it. And why my Republican friends do not take the same stand, I cannot understand. But if it were a Democratic President, the shoe would be on the other foot for them. I daresay they would not want to be handing that Presidential enhanced rescissions powers or line-item veto authority. They would not want him to have that. It would be different then.

But whether he is a Democrat or a Republican, I am against it. Surely, Congress would have to be infected with a collective madness to seriously contemplate handing to any President such a blackjack, even though it be clothed with the velvet-sounding name: enhanced rescissions. It may sound like the voice of Jacob to the ears of the unwary, but, in reality, it is the hairy hand of Esau, and Congress should never let itself be fooled into giving its blessing to such a perverse proposal.

Mr. President, the item veto and the enhanced rescissions proposal are currently being advocated most vigorously and most vociferously by the White House and by Republican Members of the House and Senate, who have had, for the last 13 years, a President of their party in the Oval Office. But powers created for the use of one President will remain to be used by another. It cannot be turned on and off at will. A conservative George Bush today may be followed by a liberal Jimmy Carter tomorrow—who knows, or a liberal Michael Dukakis—or vice versa. Then where would we be? The shoe would pinch my Republican friends in the Senate.

What if a Democrat were the occupant of the big house at 1600 Pennsylvania Avenue? Would our Republican colleagues then suffer a vomitive aversion to enhanced rescissions and the item veto? Would not this seemingly precious metal then be seen for what it really is: fools gold? Would not the wax in their item-veto wings melt if our Republican colleagues were forced to fly into the heat of a Democratic Presidential sun? Ah, would they be like Hector on the field to die, to save sweet item veto's honor; or, like a perfumed Paris, would they turn and fly? And what about the cherished

friends of enhanced rescissions on the Democratic side of the aisle? Would they so lovingly salute the banner of enhanced rescissions if the assault weapons mobilized beneath its tattered folds were in the hands of a White House brigade led by Commander in Chief Ronald Reagan or George Bush? To ask these questions is to answer them. Perhaps it all depends on whose ox seems to be getting gored.

Let us briefly survey a few of the likely targets of a line-item veto or enhanced rescissions under a President Carter or a President Reagan—one, a Democrat; the other, a Republican.

On February 21, 1977, President Carter announced several water projects which he claimed did not merit continued funding in the fiscal year 1978 budget. Congress was able to prevent the elimination of funds for almost all of these projects by appropriating money in the Energy and Water Development Appropriations Bill. However, if President Carter had been vested with line-item veto or enhanced rescission authority, the list of projects that he publicly opposed in this one bill, and which would likely have been candidates for a line-item or enhanced rescission authority, include:

PROJECT, STATE

Applegate Lake, Oregon.
 Atchafalay River and Bayous Boeuf, Black and Chene, Louisiana.
 Bayou Bodcau, Louisiana.
 Cache Basin, Arkansas.
 Grove Lake, Kansas.
 Hillsdale Lake, Kansas.
 LaFarge Lake, Wisconsin.
 Lukfata Lake, Oklahoma.
 Meramec Park Lake, Missouri.
 Richard B. Russell Dam and Lake, Georgia, South Carolina.
 Tallahala Creek, Mississippi.
 Yatesville Lake, Kentucky.
 Columbia Dam, Tennessee.
 Fruitland Mesa, Colorado.
 Savery-Pot Hook, Colorado, Wyoming.
 Auburn, California.
 Narrow Unit, Colorado.
 Oahe Unit, South Dakota.
 Mississippi River, Gulf Outlet, Louisiana.
 Tensas Basin, Arkansas, Louisiana.
 Bonneville Unit, Central Utah Project, Utah.
 Central Arizona Project, Arizona.
 Garrison Diversion, North Dakota.

In February of 1981, President Reagan presented his "Program for Economic Recovery" to the Nation. In his budget reform proposals, he called for eliminating or reducing various programs within a number of agencies including the following:

This is for my friends on the Democratic side of the aisle who embrace the line-item veto, who embrace enhanced rescission.

Well, here are the items that were in the budget reforms proposed by President Reagan in 1981:

DEPARTMENT OF AGRICULTURE

Child Nutrition Programs.
 Food Stamps.
 Dairy Price Supports.
 Alcohol Fuels and Biomass Loans.
 Rural Electrification Administration.
 Farmers Home Administration Direct Loans.

DEPARTMENT OF COMMERCE

Economic and Regional Development (including the Appalachian Regional Commission).
 Various National Oceanic and Atmospheric Administration Programs.

DEPARTMENT OF DEFENSE

Inland Waterway Subsidies.

DEPARTMENT OF EDUCATION

Impact-aid for Schools.
 Vocational Education.
 National Institute on Education.
 Institute of Museum Service.
 Guaranteed Student Loan Programs.

DEPARTMENT OF ENERGY

Synthetic Fuels.
 Fossil energy.
 Alcohol fuels subsidies.
 Energy regulation.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Benefits.
 AFDC Welfare Benefits.
 Medicaid.
 National Institutes of Health.
 Medical Services for Merchant Seamen.
 Health Professions Education.
 Health Maintenance Organization.
 National Health Service Corps.
 Regulation of Health Care Industry.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Subsidized Housing Levels.
 Subsidized Housing Rents.
 Solar Energy and Conservation Bank.
 Community Development Support Assistance.
 Rehabilitation Loan Fund.
 Neighborhood Self-Help Development.

DEPARTMENT OF THE INTERIOR

Improve Targeting of Conservation Expenditures.
 Youth Conservation Corps.

DEPARTMENT OF LABOR

Unemployment Insurance.
 Federal Employees Injury Compensation (FECA).
 Unemployment Compensation for Ex-Servicemembers.
 Trade Adjustment Assistance.
 Black Lung.
 Comprehensive Employment and Training Act (CETA).
 Young Adult Conservation Corps.

DEPARTMENT OF TRANSPORTATION

Highway Safety Grants.
 Mass Transit Operating Subsidies.
 Amtrak Subsidies.
 Northeast Corridor Improvement Project.
 Low Volume Railroad Branchlines.
 Cooperative Automotive Research.
 Subsidies for Airway and Airport User Fees.

OTHER AGENCIES

Acceleration of Mineral Leasing.
 CAB Airline Study.
 Export-Import Bank.
 Postal Service Subsidies.
 Water Resource Development Construction.
 EPA Waste Treatment Grants.
 Corporation for Public Broadcasting.
 NASA Reductions.
 National Consumer Cooperative Bank.
 National Endowment for the Arts and Humanities.
 National Science Foundation.

As in the examples given under President Carter, although Congress was able to restore funding for many of the above programs, had President Reagan been vested with line-item veto or enhanced rescission authority, he would have been able to use such power against the wishes of Congress.

During the 1988 Presidential election, Democratic candidate Michael Dukakis publicly announced his opposition to two Department of Defense weapon systems—the Midgetman and the MX missile. Had he been elected President and had he been given line-item veto or enhanced rescission authority, it is likely that he would have exercised that power to reduce or eliminate one or both of these systems.

So I say to my Republican colleagues: "The old order changeth, yielding place to new." Tennyson's words are as true in politics as in other fields. Some day the Presidency will again be in the hands of a Democrat. You cannot eat your cake and have it too.

Mr. President, an old bluegrass song carries a line: "I'm traveling down a long, lonesome highway, and there's no turning back." Thoughtful Senators know that once enhanced rescission power is ever given to the President—which, God forbid—it will never be taken back by Congress.

So I say to my Republican friends, give this President enhanced rescission authority, give it to him, and then when a Democratic

President is in that White House—as one will be as sure as the splendid Sun crosses the heavens—that power will never be given back to the Congress. It is a one-way ticket and there is no bend in the road. It is a train that will never return. Any legislation that might in the future seek to negate a President's power of enhanced rescission would be summarily vetoed.

So you pass this legislation—and it is offered by Senators on the Republican side now—you pass it. If it should become law, the day will come when you will rue it. You will never get the power back. Try to pass legislation to retrieve it. The Democratic President will veto it. It will take a two-thirds vote to override the veto, and you probably will never get two-thirds.

I can remember a time in 1937 when the Republicans had only 17 Senators—17; 17 Republicans in the Senate. Better not give that much power to the President—any President.

Such a fateful shift of power over the purse would permanently alter the constitutional system of checks and balances and separation of powers. I warn Senators that once we go down that road, there will be no turning back:

“The moving finger writes; and, having writ,

Moves on,

“Nor all your piety nor wit

Shall lure it back to cancel half a line,

“Nor all your tears wash out a word of it.”

That completes my third speech, Mr. President.

EXHIBIT 1

Fiscal year:	Number of rescissions proposed by President	Total amount proposed by President for rescission	Number of proposals accepted by Congress	Total amount of proposals enacted by Congress	Number of rescissions initiated by Congress	Total amount of rescissions initiated by Congress
1992	1 ¹	16,700,000	0	0	25	1,382,377,000
1991	30	4,859,251,000	0	0	22	1,332,955,000
1990	11	554,258,000	8	513,302,000	68	2,322,145,000
1989	6	143,100,000	1	2,053,000	9	212,313,000
1988	0	0	0	0	61	3,860,653,067
1987	73	5,835,800,000	2	36,000,000	50	5,699,509,675
1986	83	10,126,900,000	4	143,210,000	5	6,668,450,000
1985	244	1,854,800,000	98	173,699,000	11	5,451,074,000
1984	9	636,400,000	3	55,375,000	8	2,181,515,000
1983	21	1,569,000,000	0	0	10	280,605,100
1982	32	7,907,400,000	5	4,365,486,000	3	16,927,000
1981	166	15,361,900,000	101	10,899,935,550	43	3,678,590,600
1980	59	1,618,100,000	34	777,696,446	30	3,003,950,100
1979	11	908,700,000	9	723,609,000	1	47,500,000
1978	12	1,290,100,000	3	55,255,000	2	61,964,000
1977	20	1,926,930,000	11	1,277,090,000	2	5,200,000
1976	50	3,582,000,000	7	148,331,000	0	0
1975	87	2,722,000,000	38	386,295,370	1	4,999,704
1974	2	495,635,000	0	0	0	0
Grand total 1974-92	920	61,635,857,000	324	19,557,337,366	351	36,210,728,246

¹ As Feb. 26, 1992.

Source: GAO.

Mr. BYRD. I have two or three additional speeches. I do not know what the wishes of the leadership may be. I am sure that Senator SASSER is ready to present a point of order. But I told Sen-

ator MCCAIN that, should I elect to put in a quorum, I would notify him. Let me see if I can ascertain what the wishes of the leadership may be.

THE GAO REPORT ON THE LINE-ITEM VETO

Mr. BYRD. Mr. President, something has been said today about the report entitled "Line-Item Veto, Estimating Potential Savings." That was the title of the report by the General Accounting Office.

The purpose of that report, according to its cover letter, was to provide a better basis on which to debate the basis of Federal line-item veto proposals.

Well, having read the report, I am prepared to state that it in no way achieves its stated purposes. I have thought rather well of the General Accounting Office over the years. The General Accounting Office is an arm of the Congress, and why the General Accounting Office would allow itself to be used to stick a knife in the back of the Congress is a little beyond me.

Cassius died by turning the same dagger upon himself that he had plunged into the veins of Caesar.

Apparently, the General Accounting Office wants to do the same. And it is my guess that it will get a little bit of that same knife that it has used on the Congress. In all my years in Congress, that is the weakest report that I have seen from the General Accounting Office—shabby. It is fatally flawed.

Its basic premise assumes that the President would have applied the line-item veto to all items to which objections were raised in statements of administration policy during fiscal years 1984 through 1989. Yet the report itself states on page 2 that these estimates are subject to a variety of uncertainties, and other administration documents indicated that they may overstate the savings that would have occurred. A special one-time OMB report in 1988 indicated that the President would have vetoed much smaller amounts than those that the SAP's—statements of administration policy—identified as objectionable for that year.

Armed with this knowledge, the GAO should have concluded that it was not possible to issue a report that could state with any certitude what amounts of appropriations would have been line-item vetoed.

Furthermore, page 7 of the report indicates that 71 Federal programs would have been terminated. If in fact these programs were not terminated but were objected to in SAP's in more than 1 of the 6 years, did the GAO count the savings every time the terminations were recommended?

I will give one more example. I know for a fact that the President proposed several times to terminate Amtrak. So if the President proposed the termination of Amtrak in each of the 6 years, 1984 through 1989, did the GAO count the savings in every one of those years, duplicating the savings?

The President asked for the termination each year. The Congress did not terminate Amtrak, but the General Accounting Office, in its lousy report, does not allow for that fact. It uses the total cumulative figure over those 6 years, as if it had been a different item in each year that had, indeed, been terminated by the Congress. So it overstates the savings by sixfold, in that instance. Imagine the

arm of the Congress—the GAO—letting itself be used to enhance the destruction of the constitutional powers, the basic constitutional power of the Congress, the power over the purse.

Let me take some excerpts from the budget overview hearing of the Senate Appropriations Committee held on February 18, 1992. Mr. Darman was the witness.

Mr. Darman said, “so it shows, once again, that from the perspective of at least appropriations, appropriations is not where the fundamental problem is * * *.”

Then, in another instance, in referring to the Federal budget, he said that it was about \$1.5 trillion—

“About a trillion and a half dollars a year,” If you say to them, “But by the way, the reason the deficit is so out of control is that we only look at about \$500 billion of that each year. The other trillion we just leave alone.”

What Mr. Darman had reference to there was entitlements and mandatory items. That is one of the areas of the budget that is not only getting out of control, it has been out of control. And it is getting worse.

But the point I am making here is, the line-item veto would not give the President of the United States an opportunity to get at that. He could not go back and line-item the entitlements and mandatories.

Where the Presidents have missed the boat has been on those occasions when they could have vetoed authorization bills coming to the White House that established new programs, new and costly programs.

I am talking with reference to the fact that the budgets have gotten out of control, the deficits are eating us up, and the mandatories and entitlements are going to swallow us whole. They are going to eat us alive.

So that was the time for the Presidents to have exercised their veto. Once those are in law and they are required to be funded and they are not controllable by the Appropriations Committee, they are automatic. The formulas are set by law. Then the horse is out of the barn. That is what is happening to the budget.

Supporters of the line-item veto and the enhanced rescissions presume, Mr. President, and would have people believe, that it is the Appropriations Committee that is responsible for the enormous deficits that we are running. The Appropriations Committee has control over only a minor portion of the budget. As I will shortly indicate, and point out to the Senate, the uncontrollable portions of the budget are the parts that are really causing the runaway deficits, but the President cannot line-item veto those areas of the budget. They are set by law. The only way they can be changed would be by another law passed by the Congress and signed by the President.

The chart which I am about to show will point out that between the years 1981 and 1997 mandatory items and entitlements will have accounted for \$2,524,000,000,000 above inflation in those years. This line represents the cumulative real increase in entitlements in the years 1981 to 1997, and with the horizontal line representing, let us say, inflation in this instance or baseline. The viewers will note that in the bar to their far left, entitlements and

mandatory will be \$2,524,000,000,000 over inflation in those years. Defense will be \$733 billion over inflation. Foreign operations \$27 billion under inflation. And domestic discretionary funding, cumulatively speaking, during those years will amount to \$655 billion under inflation—under inflation.

But the point again is this: While defense and domestic discretionary—and I will point out those two bars on the chart again, defense and domestic discretionary—go through the appropriations process; in this year we are about to be in, fiscal year 1993, domestic discretionary will be 12.7 percent of the budget and defense will be 19.2 percent. So that is about 32 percent of the total budget that the Appropriations Committee will have control over. But for entitlements and mandatory, the Appropriations Committee will have no control over them.

Now as to appropriations, between the years 1945 and 1991, let me call your attention to the fact that in those years—1945 through 1991—the Presidents of the United States requested a total of \$11,710,201,833,552. How much did the Congress appropriate in those years? It appropriated a total of \$11,521,432,604,188. In other words, Congress appropriated \$188,769,229,364 less than all the Presidents in those years requested. So let the Appropriations Committees not be blamed for the budget deficit.

And when we talk about a line-item veto, that is what the President will be line-iteming. He will be line-iteming appropriations.

Appropriations, as I have just stated, has not been the culprit. The Appropriations Committees have not been the culprits, and yet there are those in this Senate who want to adopt an amendment giving to the President line-item veto power; they cannot give him that by statute but they want to try it. But they can give him by statute, I think, enhanced rescissions, which is by far worse than the line-item veto, and it would be directed at appropriations.

Why take the gun to the innocent entity?

Mr. Reagan was the chief proponent, as I say, in recent years of the line-item veto.

Let us just take his budgets. What did he request in the 8 years when he was President? He requested a total of \$4,587,429,688,727. How much was appropriated? \$4,571,282,018,726. In other words, Congress came under Mr. Reagan by a total of \$16,147,670,001.

So I hope those who feel that the Appropriations Committees have been the culprits will see that the facts do not support their assertions. And I am talking about those Presidents as well who think that, because that is what they are driving at. When they talk about the line-item veto, they are talking about vetoing appropriations bills. And what I am saying is that the Appropriations Committees are not responsible for the deficits. I have just proved it.

I ask unanimous consent, Mr. President, that the tables showing all of the appropriations from 1945 through 1991 be printed in the RECORD.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

REGULAR ANNUAL, SUPPLEMENTAL, AND DEFICIENCY APPROPRIATION ACTS COMPARISON OF BUDGET REQUESTS AND ENACTED APPROPRIATIONS

	Administration requested	Enacted appropriations	Difference under (-)/over (+)
Calendar year:			
1945	\$62,453,310,868	\$61,042,345,331	-\$1,410,965,537
1946	30,051,109,870	28,459,502,172	-1,591,607,698
1947	33,367,507,923	30,130,762,141	-3,236,745,782
1948	35,409,550,523	32,699,846,731	-2,709,703,792
1949	39,545,529,108	37,825,026,214	-1,720,502,894
1950	54,316,658,423	52,427,926,629	-1,888,731,794
1951	96,340,781,110	91,059,713,307	-5,281,067,803
1952	83,964,877,176	75,355,434,201	-8,609,442,975
1953	66,568,694,353	54,539,342,491	-12,029,351,862
1954	50,257,490,985	47,642,131,205	-2,615,359,780
1955	55,044,333,729	53,124,821,215	-1,919,512,514
1956	60,892,420,237	60,647,917,590	-244,502,647
1957	64,638,110,610	59,589,731,631	-5,048,378,979
1958	73,272,859,573	72,653,476,248	-619,383,325
1959	74,859,472,045	72,977,957,952	-1,881,514,093
1960	73,845,974,490	73,634,335,992	-211,638,498
1961	91,597,448,053	86,606,487,273	-4,990,960,780
1962	96,803,292,115	92,260,154,659	-4,543,137,456
1963	98,904,155,136	92,432,923,132	-6,471,232,004
1964	98,297,358,556	94,162,918,996	-4,134,439,560
1965	109,448,074,896	107,037,566,896	-2,410,508,000
1966	131,164,926,586	130,281,568,480	-883,358,106
1967	147,804,557,929	141,872,346,664	-5,932,211,265
1968	147,908,612,996	133,339,868,734	-14,568,744,262
1969	142,701,346,215	134,431,463,135	-8,269,883,080
1970	147,765,358,434	144,273,528,504	-3,491,829,930
1971	167,874,624,937	165,225,661,865	-2,648,963,072
1972	185,431,804,552	178,960,106,864	-6,471,697,688
1973	177,959,504,255	174,901,434,304	-3,058,069,951
1974	213,667,190,007	204,012,311,514	-9,654,878,493
1975	267,224,774,434	259,852,322,212	-7,372,452,222
1976	282,142,432,093	282,536,694,665	+394,262,572
1977	364,867,240,174	354,025,780,783	-10,841,459,391
1978	348,506,124,701	337,859,466,730	-10,646,657,971
1979	388,311,676,432	379,244,865,439	-9,066,810,993
1980	446,690,302,845	441,290,587,343	-5,399,715,502
1981	541,827,827,909	544,457,423,541	+2,629,595,632
1982	507,740,133,484	514,832,375,371	+7,092,241,887
1983	542,956,052,209	551,620,505,328	+8,664,453,119
1984	576,343,258,980	559,151,835,986	-17,191,422,994
1985	588,698,503,939	583,446,885,087	-5,251,618,852
1986	590,345,199,494	577,279,102,494	-13,066,097,000
1987	618,268,048,956	614,526,518,150	-3,741,530,806
1988	621,250,663,756	625,967,372,769	+4,716,709,013
1989	652,138,432,359	666,211,680,769	+14,073,248,410
1990	704,510,961,506	697,257,739,756	-7,253,221,750
1991	756,223,264,591	748,262,835,695	-7,960,428,896
Total	11,710,201,833,552	11,521,432,604,188	-188,769,229,364

Source: House Committee on Appropriations.

REGULAR ANNUAL, SUPPLEMENTAL, AND DEFICIENCY APPROPRIATION ACTS COMPARISON OF BUDGET REQUESTS AND ENACTED APPROPRIATIONS

	Administration requested	Enacted appropriations	Difference under (-)/over
Calendar year:			
Carter administration			
1977	364,867,240,174	354,025,780,783	-10,841,459,391
1978	348,506,124,701	337,859,466,730	-10,646,657,971
1979	388,311,676,432	379,244,865,439	-9,066,810,993

REGULAR ANNUAL, SUPPLEMENTAL, AND DEFICIENCY APPROPRIATION ACTS COMPARISON OF
BUDGET REQUESTS AND ENACTED APPROPRIATIONS—Continued

	Administration requested	Enacted appropriations	Difference under (–)/over
1980	446,690,302,845	441,290,587,343	– 5,399,715,502
Total	1,548,375,344,152	1,512,420,700,295	– 35,954,643,857
Reagan administration			
1981	541,827,827,909	544,457,423,541	2,629,595,632
1982	507,740,133,484	514,832,375,371	7,092,241,887
1983	542,956,052,209	551,620,505,328	8,664,453,119
1984	576,343,258,980	559,151,835,986	– 17,191,422,994
1985	588,698,503,939	583,446,885,087	– 5,251,618,852
1986	590,345,199,494	577,279,102,494	– 13,066,097,000
1987	618,268,048,956	614,526,518,150	– 3,741,530,806
1988	621,250,663,756	625,967,372,769	4,716,709,013
Total	4,587,429,688,727	4,571,282,018,726	– 16,147,670,001

Mr. BYRD. Mr. President, I am not needlessly taking up the time of the Senate. It is my understanding that efforts are being made to work out an agreement on the pending bill, and it is hoped that such agreement might be reached shortly.

So I am trying to accommodate the leadership in that respect. At the same time, I am trying to accommodate Senators, now and in the future by having separate speeches in the RECORD which I hope will be of assistance to those Senators who might read those speeches in the years to come when I am no longer here. Somebody else can defend the Congress and its powers.

I ask unanimous consent now that each of the speeches I have made appear separately, in separate places in the debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LIEBERMAN. Mr. President, I rise in support of S. 479, the National Cooperative Research Act Extension of 1991. This bill takes the important step forward of extending to benefits of the National Cooperative Research Act of 1984 to manufacturing and production joint ventures. It will make it easier for American companies to make the leap from the laboratory—where we have led the world—to the marketplace, where new product introduction has too often lagged. For these reasons, I had included a very similar title in S. 940, my economic growth bill.

The 1984 National Cooperative Research Act clarified that a research and development joint venture would not be per se illegal under the antitrust laws, but would be tested under the rule of reason. This was not a novel standard. The rule of reason simply means that a court must look to see whether the challenged conduct is an unreasonable restraint of trade. It is the standard used to judge virtually all conduct that has legitimate, procompetitive justifications. The 1984 act also declared that research and development joint ventures that properly disclosed their existence to the Attorney General and the Federal Trade Commission could only be liable for actual, rather than treble, damages for antitrust claims resulting from such ventures.

This bill extends these protections to production joint ventures. It makes clear that courts should apply the rule of reason standard to production joint ventures, and allows those joint ventures to take advantage of the same protections against treble damages.

What this bill does not do is undermine the antitrust laws. This bill does not create any antitrust immunity for joint venturers. The rule of reason remains the basic antitrust standard. The bill merely prevents a court from erroneously declaring a joint venture to be a per se violation. A year and a half ago, Senators DANFORTH, JEFFORDS, BINGAMAN, BRYAN and I, all former State attorneys general with antitrust enforcement responsibility, wrote to Senators BIDEN and METZENBAUM urging passage of this bill and discussing the bill's antitrust implications. I ask that a copy of that letter be printed in the RECORD following my statement.

This bill, S. 479, will in a very important way, help our companies compete. Too many American firms are deterred from making strategic investments because of cost. One way for companies to cut costs is by forming strategic joint ventures. Such ventures encourage companies to pool resources, sharing the risk of those projects that are beyond their individual means.

A recent article in the New York Times science section stated that Japan has now passed the United States as the leading nation supporting industrial R&D. This is a clear indication of our increasing inability to keep up with Japan on key competitive issues.

By passing this legislation, we are aiding American companies with this process of pooling resources and sharing costs. The global marketplace is more competitive and more expensive than the traditional domestic-only market in which most American firms have competed. We need to change our way of thinking when it comes to assisting American companies. We can no longer afford to apply outdated norms to the modern marketplace. S. 479 helps to address some fundamental issues confronting American companies as they attempt to compete. I urge my colleagues to support the passage of this most important legislation.

I also ask unanimous consent that the New York Times article on Japan passing the United States in support for industrial research be included in the RECORD as part of my statement.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, Feb. 25, 1992]

JAPAN SEEN PASSING UNITED STATES IN RESEARCH BY INDUSTRY

(By William J. Broad)

Japan has equaled or surpassed the United States as the world's top patron of industrial research and development, according to a growing number of science analysts. If so, Japan has a powerful weapon in the trade wars of the 1990's and beyond as it uses research discoveries to launch a new wave of innovative goods and services.

The analysts take issue with the Federal Government's Japan-watchers, who calculate that the United States still leads in research spending by business, while acknowledging that America's edge in this area is eroding fast. Last week a Federal agency reported that American spending on research and development, including money from government, business and other sources, has begun to decline for the first time since the 1970's.

An increasing number of private analysts, as well as Japanese economists and American officials, say the picture is far gloomier than Federal estimates suggest. Japan, they say, has in fact expanded its industrial research so rapidly in the past decade that it now rivals the United States, and perhaps has already pulled ahead.

The dispute comes even as the Japanese have seized the leadership role in related fields. Japan, with half the population of America and an economy two-thirds the size, is already known to invest more in new factories and equipment. In 1990, it spent \$586 billion on capital investment, compared with the \$524 billion spent by the United States. And experts agree that certain of Japan's high-technology industries, including semiconductor fabrication, heavily outspend American rivals in advanced research as well.

What is emerging now is the radical idea that Japan as a whole, for the first time, is challenging America's traditional role as world leader in the overall support of industrial research. That role is seen as vital since private industry is increasingly the source of the innovations so important in the international race for commercial advantage that it is pouring vast amounts of money into industrial research and say it will eventually overtake the United States if the pace of investment is sustained.

A leader of the school that says Japan has already attained superiority is Senator Jeff Bingaman, Democrat of New Mexico, who recently told his Congressional colleagues that Japan had quietly scaled the summit of industrial research and development. "It is close to certain that the Japanese are, or will soon be, outspending us on civilian R.&D., especially in industry," Mr. Bingaman said.

In an interview, Bruce R. Scott, a professor at the Harvard Business School, agreed and said the way the Federal Government compares international industrial research spending gave a false picture of foreign spending.

Significantly, a Federal panel has adopted that view. The Competitiveness Policy Council, recently created by Congress, is an advisory body whose 12 members are appointed by the White House and Congress. Mr. Scott of Harvard is a member, and the council's chairman is C. Fred Bergsten, director of the Washington-based Institute for International Economics.

The council is circulating a draft report that says Japan has surged ahead of America in business spending on research. The final report is to be made public on March 4.

Federal officials in charge of comparing research among nations insist that the United States is still far ahead of Japan. But they concede that their methods, which center on adjusting exchange rates between the dollar and the yen, need an overhaul.

John E. Jankowski Jr., a senior financial analyst at the National Science Foundation, a Federal agency that supports research and monitors spending on scientific research, said the agency's current method was nowhere "near the ideal of what we'd like" but defended it as the best available. Its overhaul, he said, would require a major effort that was unlikely soon in a period of tight budgets.

The issue of who leads the world in industrial research has taken on new significance in recent years because such research has quietly become a prime engine of discovery and innovation.

For decades, in America and elsewhere, it was governments that financed the lion's share of scientific research and development, putting money into universities, defense industries and state laboratories. In the United States, the Government did so with a vengeance during the cold war and pioneered a host of innovations, including rockets, jet engines, computer chips, communication satellites and photovoltaic cells.

By 1980, American industry had grown so large and had become so dedicated to its own pursuit of scientific advancement that for the first time it surpassed the Federal Government as the nation's top patron of science research. It has maintained that position ever since.

In 1989, for instance, the most recent year for which foundation figures are available, American industry spent \$71.77 billion on research and development, compared with the \$68.72 billion from all other sources in the United States, including the Federal Government. As a result of this and other factors, American industry has become a hotbed of innovation.

SWINGING WILDLY

The trend of spending more on industrial research is global. Yet measuring exactly how much nations spend is extremely difficult, experts agree. A crucial problem is exchange rates, which can swing wildly and are often seen as poor indicators of a currency's real value.

As a result, economists have developed conversion tables that try to equalize price levels among countries. These are known as Purchasing Power Parities, or P.P.P.'s. Their aim is to make the clout of differing currencies roughly equal in terms of goods that are traded internationally. For instance, American P.P.P.'s for 1989 show a dollar on average being worth 204 yen. That is much stronger than the dollar's actual market value that year of 138 yen. What that means is that a Japanese camera was cheaper for an American buyer and more expensive for a Japanese buyer than is suggested solely by market exchange rates.

The National Science Foundation routinely uses the parity technique, rather than exchange rates, to compare research among nations. It thus finds Japanese industrial research to be relatively paltry. The foundation says Japanese industry spent 8.54 trillion yen on research in 1989, which by the parity technique is equal to \$41.90 billion, or a little more than half the comparable American sum. But if calculated at market exchange rates, the figure jumps to \$61.83 billion.

The Japanese see their investment as even greater. The July 1991 issue of *The Japan Economic Survey*, published in Washington by the Japan Economic Institute, cited a Japanese Government study that said Japanese business in 1989 spent 9.60 trillion yen on research. Using a market exchange rate of 135 yen to the dollar, the survey said that figure equaled \$71.10 billion dollars, or roughly what American business spent that year.

The fields where Japan's industrial research investment is expanding rapidly include publishing, printing, petroleum, plastics, fabricated metal products, machinery, communications, textiles,

chemicals and transportation. Areas where it is down include agriculture and mining.

Changes in Investment—Shifts in Japan's research and development expenditures in selected industries between 1988 and 1989

Industry:	Percent
Agriculture	- 46.3
Mining	- 12.5
Construction	+24.7
Manufacturing	+14.1
Food products	+13.5
Textiles	+11.6
Publishing and printing	+33.0
Plastic products	+32.8
Nonmetallic mineral products	+11.5
Fabricated metal products	+22.0
Non-electric machinery	+23.9
Electric machinery	+14.5
Transportation equipment	+14.6
Motor vehicles	+16.6
Precision machinery	+11.5
Transportation, communications and utilities	+12.0

Source: Japanese Management and Coordination Agency.

Senator BINGAMAN, who heads the technology and national security subcommittee of the Congressional Joint Economic Committee, saw the Japan Economic Survey article, became worried that the science foundation's estimates were faulty and ever since has tried, with minor success, to stir debate on the subject. An early review of the dispute was published in *New Technology Week*, a trade publication based in Washington that first explored the topic in its Jan. 13 issue.

In its current issue, dated Feb. 24, *New Technology Week* moved the issue forward by citing new evidence of Japan's supremacy. The publication said the American Embassy in Tokyo is citing a preliminary 1990 figure for Japanese industrial research of 10.72 trillion yen, or, at an exchange rate of 135 yen to the dollar, nearly \$80 billion. That figure, the publication said, is far greater than comparable American spending and "should send shock waves through the U.S. Industrial community."

Some experts say the problem is overstated. They note that the United States Government supports a vast amount of research, unlike Japan, and that this Federal research is a quiet aid to American industry. For instance, the billions of dollars spent annually on scientific research by the National Institutes of Health is clearly a boon to the pharmaceutical industry. But the results from much of this Federal research, unlike business research, are openly published in scientific journals and are available to the Japanese as well.

Some experts say the status of American industrial research may be far worse than the debate over exchange rates so far suggests. Mr. Scott of the Harvard Business School said current methods of comparison are likely to vastly understate Japanese prowess since they focus on consumption rather than production, which in Japan is often remarkably efficient.

Using the parity technique to analyze research spending, he said, is crazy, "That's a way to measure Japanese incomes and say what they can purchase," he said. "If you adjust instead for the produc-

tive power of the manufacturing sector, you get an exchange rate closer to 100" yen to the dollar.

That figure, if applied to Japan's 1989 investment in industrial research, as measured by the National Science Foundation, leads to a dollar equivalent of \$85.4 billion. And that, of course, is far ahead of American industry's \$71.77 billion investment that year.

While not endorsing the accuracy of such calculations, Mr. Jankowski of the foundation said that any overhaul of America's system for gauging the financial strength of foreign industrial research would have to take such productivity issues into account.

U.S. SENATE,
Washington, DC, September 21, 1990.

Senator JOSEPH R. BIDEN, Jr.,
Chairman, Committee on the Judiciary, Dirksen Senate Building,
Washington, DC.

Senator HOWARD M. METZENBAUM,
Chairman, Subcommittee on Antitrust, Monopolies and Business
Rights, Committee on the Judiciary, Hart Senate Building,
Washington, DC.

DEAR JOE AND HOWARD: We are writing to you, as former state Attorneys General, concerning various proposals to extend the National Cooperative Research Act of 1984 to include manufacturing or production joint ventures, in addition to research and development joint ventures. There are presently four bills introduced in the Senate which address this issue: S. 1006, introduced by Senators Thurmond and Leahy; S. 2692, introduced by Senator Thurmond on behalf of the administration; Title IV of S. 2765, introduced by Senator Lieberman; and H.R. 4611, which has already passed the House of Representatives. First and foremost, we want to encourage you to move this legislation so that it can be considered by the full Senate.

With respect to the substance of this bill, we believe that those of us who served as state attorneys general have a unique perspective with respect to this legislation which might be helpful to our colleagues as they consider this bill. We hope that our observations will be of assistance to you as your committee deliberates.

There can be no doubt about the need to improve America's competitiveness in international trade. Too often in recent years, American business and industry have been left in the dust by overseas competitors. One of our problems is that, while we continue to make breakthroughs in basic science and research and to invent new products, we often drop the ball when it comes to bringing new products to market.

S. 1006, and related legislation, will encourage and facilitate efforts to bring these products to markets by clarifying the antitrust principles governing manufacturing joint ventures. It is important to note that these bills do not change the existing standard for evaluating the antitrust consequences of these joint ventures: joint ventures will continue to be judged under the rule of reason. A joint venture will still violate the antitrust laws if it constitutes an unreasonable restraint of trade. These bills will, however, help to

alleviate some companies' fears that their joint venture would constitute a per se violation of the antitrust laws.

S. 1006 and related bills, will also extend to manufacturing joint ventures limited protection against trebled damage awards, just as currently afforded to research and development joint ventures. Joint venturers who violate the antitrust laws will continue to be liable for actual damages, prejudgment interest and the prevailing plaintiff's costs and attorney's fee.

As former antitrust law enforcers, we are the first to concede that detrebling damages for qualified manufacturing joint venturers reduces a measure of deterrence against anticompetitive activity. These bills, however, contain specific provisions that make it unlikely that an unscrupulous manufacturer could attempt to use the provisions of this bill as a means to reduce the risks of engaging in anticompetitive conduct. They require, as a condition of detrebling damages, that joint venturers notify the Department of Justice and the Federal Trade Commission of the venture, its nature and objectives, and that the Department or the Commission publish a notice of the joint venture in the Federal Register. These notice provisions will strengthen public and private prospective antitrust enforcement by enabling the Department of Justice, Federal Trade Commission, or other private parties to sue to enjoin any joint venture prior to its consumation.

Furthermore, we believe that any loss of deterrence against manufacturing joint venturers must be weighed against the procompetitive and competitiveness benefits. Manufacturing joint ventures are essential for firms to meet successfully the challenge of foreign competition. They can allow companies to share the risks of bringing new products to market, spread the start-up costs thereby reducing barriers to new product entry, and allow companies to contribute and share production and technical expertise and know-how. A manufacturing joint venture may also be a necessary adjunct to a research and development joint venture since, especially for high-tech products, research and development activities must be closely coordinated with production investment, processes and techniques. Since our firms already face an extremely high cost of capital relative to the rest of the world, we need these manufacturing joint ventures to help us stay competitive.¹ Moreover, as compared with mergers driven by the need to share risks, acquire sufficient capital or share knowledge, manufacturing joint ventures present a less permanent, and therefore an inherently less anticompetitive, alternative.

In terms of developing new manufacturing products or processes, it is also often difficult to assess the potential antitrust risk at the outset of a venture. An effective manufacturing joint venture, especially for a new product or process, needs some space within which it can evolve as is necessary to serve its legitimate, pro-competitive purposes. When damages are trebled, the risks associated with entering a joint venture are also trebled. The specter of a large, treble damage award may encourage a joint venturer to be too conserv-

¹A recent study showed that the real, after-tax cost of funds in the U.S. (5.8%) is over 15% greater than in West Germany (4.9%), twice that of Japan (2.4%), and over three times greater than in Great Britain (1.9%). McCauley and Zimmer, Federal Reserve Bank of New York Quarterly Review (date).

ative and risk-averse in making decisions as to how the joint venture will proceed and evolve. Treble damages can thereby chill legitimate procompetitive activity. Detrebling the damages decreases the incentives to be risk-averse since the risks are also detrebled.

We believe that when it comes to manufacturing joint ventures, we no longer have the luxury of the extra measure of deterrence provided by a treble damage remedy. When Congress enacted the National Cooperative Research Act of 1984, it justified detrebling of antitrust damages for research and development joint venturers on the grounds that joint research and development is essential for firms to meet successfully the challenge of foreign competition, and that the antitrust risks involved in joint R&D are highly speculative at the time a firm must decide whether to join a venture and are particularly difficult to assess because joint R&D continually evolves. These circumstances similarly justify extending the detrebling provisions to manufacturing joint ventures.

We urge you to complete action on these bills quickly and report a bill in time for consideration by the full Senate during this Congress.

Sincerely,

JAMES M. JEFFORDS.
RICHARD BRYAN.
JEFF BINGAMAN.
JOSEPH I. LIEBERMAN.
JOHN C. DANFORTH.

THE REAL ISSUE IS POWER

Mr. BYRD. Now, Mr. President, the title of this statement is, "The Real Issue Is Power."

Mr. President, first among the complaints against the King of Great Britain that had been set forth in the Declaration of Independence was, "He has refused his assent to Laws, the most wholesome and necessary for the public good." Many of the laws adopted by colonial governments had had to be transmitted to England and submitted to the crown for approval. Royal provinces were expected to transmit their laws promptly. Rhode Island, Connecticut, and Maryland were not required by their charters to offer their laws to the crown, but each found it convenient to do so when the crown became insistent. Although the royal veto had fallen into disuse early in the 1700's as far as laws passed by Parliament were concerned, the veto was continued in regard to colonial laws. Although the real work of considering colonial laws was done by the Board of Trade in England, and the final action was only recorded as done by the King in the presence of, and with the advice of, his Privy Council, the Declaration of Independence laid the full responsibility for the royal vetoes at the door of the King.

Considering their antipathies toward King George III, therefore, one might wonder why the Framers provided the Chief Executive with any veto at all. But they did, and it has been a part of our Nation's history for these past two hundred years.

It has been asserted by some proponents of the item veto that "Congress has eroded the veto power" and that the Founders "intended" that the veto "be frequently and forcefully used as an essential internal control on government." Just what did the Found-

ers intend in providing the veto power to the President, and has the power been indeed eroded?

There are those who have not read the Constitution lately. They have not read Madison's notes lately. And they have not read probably the debates at the conventions that took place. They contend that the veto power is already there; all the President needs to do is use it. And they virtually dare the President to go ahead and use it. They say use it, go ahead and do it.

Well, there may have to be a court test of this at some point, Mr. President. If the President, indeed, succumbs to that tenuous and seductive reasoning, there may have to be a court case.

That is another reason I wanted to make these statements so they will be in the RECORD. Perhaps they can be useful at such a time as that.

To find the answers to these and other questions regarding the veto, I have carefully examined the "Debates in the Federal Convention of 1787 as reported by James Madison." My examination covered the 637 pages of Madison's notes, as they appear in *Formation of the Union of the American States*, House Document No. 398, 69th Congress, 1st session, Government Printing Office, Washington, DC, 1927.

Not a great deal appears regarding the veto in the RECORD of the Convention debates. Not many of the delegates participated in discussions on the subject, and my own account—which results from my own, my own careful examination, not my staff, not somebody else, of Madison's notes—captures the essential content and flavor of the debates and the details of the actions that took place in developing the veto during the entire period, beginning on May 25, 1787, when a quorum of States had assembled, through September 17, when the signing of the Constitution occurred.

On May 29, Edmund Randolph, of Virginia, presented a plan on behalf of the Virginia delegation. The plan included a proposal which, in paragraph No. 8, provided that "the Executive and a convenient number of the National Judiciary, ought to compose a Council of revision with authority to examine every act of the National Legislature before it shall operate * * * and that the dissent of the said Council shall amount to a rejection, unless the act of the National Legislature be again passed. * * *

The Randolph Plan, consisting of fifteen paragraphs or resolutions, was referred to the Committee of the Whole House with no indication in the RECORD of any further discussion thereon. On June 4, in discussing Randolph's proposal No. 8, Mr. Elbridge Gerry of Massachusetts expressed doubts that the Judiciary ought to form any part of the veto exercise, "as they will have a sufficient check against encroachments on their own department by their exposition of the laws, which involved a power of deciding on their constitutionality." James Wilson of Pennsylvania said, "The Executive ought to have an absolute negative. Without such a self-defense the legislature can at any moment sink it into nonexistence." He favored giving the Executive and Judiciary jointly an absolute negative.

Alexander Hamilton of New York and James Wilson of Pennsylvania favored an absolute negative on the laws. "There was no danger * * * of such a power being too much exercised. * * * the

King of Great Britain had not exerted his negative since the [1688] Revolution." Benjamin Franklin was opposed to such a negative, as it would be used "to influence and bribe the legislature into a compleat subjection to the will of the Executive." Roger Sherman of Connecticut was "against enabling any one man to stop the will of the whole. * * *" He thought "we ought to avail ourselves of his wisdom—meaning the chief Executive's wisdom—in revising the laws, but not permit him to overrule the decided and cool opinions of the legislature." Madison supposed that "if a proper proportion of each branch should be required to overrule the objections of the Executive, it would answer the same purpose as an absolute negative." Mr. Wilson again spoke to say he "believed as others did that this power would seldom be used. The legislature would know that such a power existed, and would refrain from such laws, as it would be sure to defeat * * * requiring a large proportion of each House to overrule the Executive check might do in peaceable times; but there might be tempestuous moments in which animosities may run high between the Executive and legislative branches, and in which the former ought to be able to defend himself." Pierce Butler of South Carolina was opposed to giving a "compleat negative on the laws," it being observed that "in all countries the Executive power is in a constant course of increase. * * * Gentlemen seemed to think that we had nothing to apprehend from an abuse of the Executive power. But why might not a Cataline or a Cromwell arise in this Country as well as in others." Gunning Bedford of Delaware was "opposed to every check on the legislative. * * * The Representatives of the people were the best judges of what was for their interest, and ought to be under no external controul whatever. The two branches would produce a sufficient controul within the legislature itself." Colonel George Mason said that the "probable abuses of a negative had been well explained by Dr. Franklin as proved by experience, the best of all tests. Will not the same door be opened here."

On the question to give the Executive an absolute negative, the vote was 10 against, none for. On a motion by Butler to give the National Executive a power to "suspend any legislative act for the term of _____," all the States were opposed. On a motion by Mr. Gerry to give "the Executive alone without the Judiciary the revisionary control on the laws unless overruled by $\frac{2}{3}$ of each branch," the vote was 8 states for, to 2 states against.

On June 6, Mr. Wilson moved to include with the National Executive, "a convenient number of the national Judiciary," in the "revision of the laws." Madison seconded the motion, observing that "it would also enable the Judiciary Department the better to defend itself against legislative encroachments," and that "whether the object of the revisionary power was to restrain the Legislature from encroaching on the other coordinate Departments * * * or from passing laws unwise in their principle, or incorrect in their form, the utility of annexing the wisdom and weight of the Judiciary to the Executive seemed incontestable. Mr. Gerry thought the Executive, standing alone, "would be more impartial than when he could be covered by the sanction & seduced by the sophistry of the Judges."

Mr. Pinkney was "opposed to an introduction of the Judges into the business." Colonel Mason believed that the "Executive power ought to be well secured against legislative usurpations on it. The purse & the sword ought never to get into the same hands whether legislative or Executive." Mr. Dickenson thought "a junction of the Judiciary * * * involved an improper mixture of powers." On the question for joining the judges to the Executive in the revisionary business, there were 8 noes and 3 ayes.

On June 13, the Committee of the Whole rose, and submitted its report on Mr. Randolph's propositions, among which it was resolved, in paragraph 10, "that the National Executive shall have a right to negative any Legislative Act, which shall not be afterwards passed unless by two thirds of each branch of the National Legislature."

On June 15, Mr. Patterson of New Jersey laid before the convention the plan which he said "several of the deputations wished to be substituted in place of that proposed by Mr. Randolph." There was no mention of a veto in the [New Jersey] plan moved by Mr. Patterson.

On June 18, during debate on the Patterson and Randolph plans in Committee of the Whole, Alexander Hamilton, who had been hitherto silent on the business before the convention, declared himself "unfriendly to both plans" and proceeded to read to the Committee of the Whole House a sketch of a plan which he preferred to either the New Jersey or the Virginia plan. He said he did not mean to offer the paper he had sketched as a proposal; it was "meant only to give a more correct view of his ideas, and to suggest the amendments which he should probably propose to the plan of Mr. Randolph in the proper stages of its future discussion."

Hamilton's proposal regarding a veto for the Executive was limited to the following words: "to have a negative on all laws about to be passed." After Hamilton completed his reading of the paper, the Committee rose and the House adjourned.

On June 19, the propositions of Mr. Patterson were again discussed, and the Committee on the Whole voted 7 to 3, with Maryland divided, to re-report the Randolph plan in preference to the Patterson plan. The Randolph plan, as re-reported, was essentially unchanged regarding the veto from what it had been when first reported on June 13, namely, "that the National Executive shall have a right to negative any Legislative Act, which shall not be afterwards passed unless by two thirds of each branch of the National Legislature." The Randolph plan contained 19 resolutions, and the Framers proceeded to debate and amend the various parts.

No discussion of Resolution No. 10, having to do with the veto, occurred until July 21, in Convention, when James Wilson of Pennsylvania moved "that the supreme National Judiciary should be associated with the Executive in the Revisionary power." The proposition had been made before and had failed, but Wilson felt he should make another effort. "The Judiciary ought to have an opportunity of demonstrating against projected encroachments on the people as well as on themselves." Madison seconded the motion.

Nathaniel Ghorum of Massachusetts did not see the advantage of employing the Judges in this way "nor can it be necessary as a security for their constitutional rights. The Judges in England," he

said, "have no such additional provision for their defence, yet their jurisdiction is not invaded." Madison disagreed: "It would be useful to the Judiciary department by giving it an additional opportunity of defending itself against Legislative encroachments. * * * It would moreover be useful to the Community at large as an additional check against a pursuit of those unwise & unjust measures which constituted so great a portion of our calamities. * * * Experience in all the States had evinced a powerful tendency in the Legislature to absorb all power into its vortex. This was the real source of danger * * * and suggested the necessity of giving every defensive authority to the other departments that was consistent with republican principles." George Mason supported the motion, saying, "It would give a confidence to the Executive, which he would not otherwise have."

Elbridge Gerry of Massachusetts was opposed, stating that the object he "conceived of the Revisionary power was merely to secure the Executive department against legislative encroachment." Caleb Strong of Massachusetts thought that "the power of making ought to be kept distinct from that of expounding the laws" and that "the Judges in exercising the function of expositors might be influenced by the part they had taken in framing the laws." Gouverneur Morris supported the motion, observing: "The interest of our Executive is so inconsiderable & so transitory, and his means of defending it so feeble, that there is the justest ground to fear his want of firmness in resisting encroachments." Luther Martin of Maryland considered the association of the judges with the Executive as "a dangerous innovation. * * * It is necessary that the Supreme Judiciary should have the confidence of the people. This will soon be lost, if they are employed in the task of remonstrating against popular measures of the Legislature." Madison again spoke: "If a Constitutional discrimination of the departments on paper were a sufficient security to each against encroachments of the others, all further provisions would indeed be superfluous. But experience has taught us a distrust of that security." Colonel Mason spoke again, saying that he "observed that the defence of the Executive was not the sole object of the Revisionary power," but it would have a "restraining power" in hindering passage of "unjust and pernicious laws." Gerry, taking the floor again, said he "had rather give the Executive an absolute negative for its own defense than thus to blend together the Judiciary and Executive departments" as it would "bind them together in an offensive and defensive alliance against the Legislature."

Nathaniel Ghorum of Massachusetts objected to letting the Judiciary share in revisionary power of the Executive, maintaining that "as the Judges will outnumber the Executive, the revisionary check would be thrown entirely out of the Executive hands, and instead of enabling him to defend himself, would enable the Judges to sacrifice him." John Rutledge of South Carolina thought the "Judges of all men the most unfit to be concerned in the revisionary Council. The Judges ought never to give their opinion on a law till it comes before them." On Wilson's motion to join the Judiciary with the Executive in the revisionary power, the motion was defeated by a vote of 3 to 4, with Pennsylvania and Georgia divided and New

Jersey absent. Resolution No. 10, giving the Executive a qualified veto, was then agreed to.

On July 26, the proceedings were referred to the Committee of detail, and the Convention adjourned until August 6 to give the Committee time to prepare and report the Constitution.

On August 6, Mr. Rutledge submitted the Report of the Committee of detail. Article VI, sect. 13, dealt with revision as follows:

"Sect. 13. Every bill, which shall have passed the House of Representatives and the Senate, shall, before it becomes a law, be presented to the President of the United States for his revision: if, upon such revision, he approves of it, he shall signify his approbation by signing it: But if, upon such revision, it shall appear to him improper for being passed into a law, he shall return it, together with his objections against it, to that House in which it shall have originated, who shall enter the objections at large on their journal and proceed to reconsider the bill. But if after such reconsideration, two thirds of that House shall, notwithstanding the objections of the President, agree to pass it, it shall together with his objections, be sent to the other House, by which it shall likewise be reconsidered, and if approved by two thirds of the other House also, it shall become a law. But in all such cases, the votes of both Houses shall be determined by yeas and nays; and the names of the persons voting for or against the bill shall be entered on the journal of each House respectively. If any bill shall not be returned by the President within seven days after it shall have been presented to him, it shall be a law, unless the legislature, by their adjournment, prevent its return; in which case it shall not be a law."

On August 7, amendments were offered. George Read of Delaware sought to give an absolute negative to the Executive, but his motion was defeated, 1 to 9.

On August 15, amendments to Article VI were offered. When section 13 was reached, James Madison moved that "all acts before they become laws should be submitted both to the Executive and Supreme Judiciary Departments, that if either of these should object, $\frac{2}{3}$ of each House, if both should object, $\frac{3}{4}$ of each House, should be necessary to overrule the objections and give to the acts the force of law."

Mr. President, if this ever reaches the court, I will have already done the examining of the notes of the convention for the justices. It might save them a little work.

The motion, as it appeared in the Journal, was as follows: "Every bill which shall have passed the two houses, shall, before it becomes a law, be severally presented to the President of the United States, and to the judges of the supreme court for the revision of each. If, upon such revision, they shall approve of it, they shall respectively signify their approbation by signing it; but if, upon such revision, it shall appear improper to either, or both, to be passed into a law, it shall be returned, with the objections against it, to that house, in which it shall have originated, who shall enter the objections at large on their journal, and proceed to reconsider the bill: but if, after such reconsideration, two thirds of that house, when either the President, or a majority of the judges shall object, or three fourths, where both shall object, shall agree to pass it, it shall, together with the objections, be sent to the other

house, by which it shall likewise be reconsidered; and, if approved by two thirds, or three fourths of the other house, as the case may be, it shall become a law."

Mr. Madison's motion was rejected by a vote of 3 to 8.

Gouverneur Morris suggested the expedient of an absolute negative in the Executive, and observed that "encroachments of the popular branch of the Government ought to be guarded against * * *. If the Executive be overturned by the popular branch, has happened in England, the tyranny of one man will ensure." Hugh Williamson of N.C. moved to change "2/3 of each House" into "3/4" as requisite to overrule the President's dissent. The motion was adopted, 6 to 4, with Pennsylvania divided. "Ten days (Sundays excepted)" instead of "seven" were allowed to the President for returning bills with his objections, with only two states voting against. Section 13 of article VI, as amended, was then agreed to. On August 16, Mr. Randolph offered the following motion, which was agreed to by a vote of 9 to 1, Massachusetts being absent:

"Every order resolution or vote, to which the concurrence of the Senate and House of Representatives may be necessary (except on a question of adjournment and in cases hereinafter mentioned) shall be presented to the President for his revision; and before the same shall have force shall be approved by him, or being disapproved by him shall be repassed by the Senate and House of Representatives according to the rules and limitations prescribed in the case of a Bill."

No further action on this subject occurred until September 12, when Dr. Samuel Johnson of Connecticut, "from the Committee of stile," reported a digest of the plan, Sect. 7 of which was as follows:

"Every bill which shall have passed the house of representatives and the senate, shall, before it become law, be presented to the president of the United States. If he approve he shall sign it, but if not he shall return it, with his objections to that house in which it shall have originated, who shall enter the objections at large on their journal, and proceed to reconsider it. If after such reconsideration two-thirds of that house shall agree to pass the bill, it shall be sent, together with the objections, to the other house, by which it shall likewise be reconsidered, and if approved by two-thirds of that house, it shall become a law. But in all such cases the votes of both houses shall be determined by yeas and nays, and the names of the persons voting for and against the bill shall be entered on the journal of each house respectively. If any bill shall not be returned by the President within ten days (Sundays excepted) after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it, unless the Congress by their adjournment prevent its return, in which case it shall not be a law.

"Every order, resolution, or vote to which the concurrence of the Senate and House of Representatives may be necessary (except on a question of adjournment) shall be presented to the President of the United States; and before the same shall take effect, shall be approved by him, or, being disapproved by him, shall be repassed by three-fourths of the Senate and House of Representatives, according to the rules and limitations prescribed in the case of a bill."

Hugh Williamson of North Carolina moved to reconsider the clause requiring three-fourths of each House to overrule the Presi-

dent's negative, in order to strike out " $\frac{3}{4}$ " and insert " $\frac{2}{3}$." Mr. Gerry supported the motion, stating that "the primary object of the revisionary check of the President is not to protect the general interest, but to defend his own department. If $\frac{3}{4}$ be required, a few Senators having hopes from the nomination of the President to offices, will combine with him and impede proper laws." Mr. Madison was opposed, believing that "the object of the revisionary power is twofold: to defend the Executive Rights, and to prevent popular or factious injustice. It was an important principle in this and in the State Constitutions," he said, "to check legislative injustice and encroachments." The question to insert " $\frac{2}{3}$ " in place of " $\frac{3}{4}$ " was carried by a vote of 6 to 4, with New Hampshire divided.

On Thursday, September 13, Madison sought to amend the language "if any bill shall not be returned by the president within ten days (Sundays excepted) after it shall have been presented to him," by inserting between the words "after" and "it," the words "the day on which," in order to prevent a question whether the day on which the bill is presented, ought to be counted or not as one of the ten days. The amendment by Madison was defeated, 3 to 8. There was no further action regarding the veto power, and the Convention completed its work four days later on Monday, September 17.

Mr. President, my study of the Convention debates clearly shows that the discussions that took place regarding the veto power were few and were engaged in only briefly. The discussions revolved around three questions: (1) whether the veto power should be given to the Executive alone or jointly to the Executive and members of the Judiciary; (2) whether the veto should be an absolute negative; and (3) the number required for a legislative override of the Executive veto—with the discussions concentrating finally on a $\frac{2}{3}$ requirement in preference to a $\frac{3}{4}$ majority.

There was no mention whatsoever of an item veto. The President was given a qualified negative only—not an absolute one—and it seems clear from the debates that its use was not anticipated, as the item-veto advocates would have us believe, "to be frequently and forcefully used as an essential internal control on government."

The argument by item-veto proponents that "Congress has eroded the veto power" and that the item veto is needed to restore that President's veto to its original vigor and purpose as intended by the Framers is not borne out by the record. The primary purpose in giving the President a veto power, as the record of the Convention debates clearly indicates, was to allow him to defend himself against encroachments by the legislative branch.

Our experience with the veto over the past 200 years has shown that its use has become more frequent during the last century than during the preceding one, and that the veto power has not been "eroded"—contrary to the claims that the item veto is necessary to restore the President's veto power to its "original vigor." The facts show that the veto power has been used vigorously by several Presidents and with comparatively few overrides.

Franklin D. Roosevelt is the champion with respect to vetoes, and he is fairly closely followed by Grover Cleveland with excellent records, with few overrides.

In the early years, the veto was used sparingly. President Washington vetoed only two bills. From Washington's Presidency until

June 29, 1990, Presidents have exercised their veto power 2,482 times, of which 1,051 were pocket vetoes. Of the 1,431 regular vetoes, only 103, or 7 percent, have been overridden, the first override occurring under John Tyler, the Nation's 10th President.

Mr. President, the reason I do not have the number of vetoes brought up to date is simply this: This series of speeches I had prepared 2 years ago, or close thereto, because I felt that there would come a time when I would need to say a few words on the subject matter. So at that time, I prepared these speeches, and that is why I had the date of June 29, 1990, as the date up to which I had counted the number of vetoes that had been exercised. So I have not brought the speech up to date from June 29, 1990.

I thought I should make that explanation for the record.

Two Presidents vetoed legislation with exceptional frequency: Cleveland, in two terms, exercised the veto 584 times, while Franklin Roosevelt vetoed 635 bills, with all but one occurring during his first three terms. President Bush at the time I prepared this speech back in 1990, had one pocket veto and twelve regular vetoes on the scoreboard, with no overrides. With an average over these 200 years of only one override out of every 14 regular vetoes—and with President Bush batting a perfect score, 13 vetoes and no overrides—it is clear that the “qualified” Presidential veto has, in practice, proved almost absolute in regard to bills of general interest to the Nation. It should not stretch one's imagination too far to comprehend the utter futility of attempting to override an item veto if a President were to be given such power over matters of interest only to a limited area or region. In recognition of this difficulty, some Senators have advanced the proposal that a President's line-item veto be overturned by only a simple majority in both Houses, rather than two-thirds. At the Federal level, may I say, how could a relaxed requirement of only a majority veto be squared with the Framers' requirement of a two-thirds supermajority? Moreover, if only a simple majority were needed to override a veto, Congress would have to spend an inordinate amount of time in attempting to override vetoes of items of less than national significance, items important only to a region or a few States or Congressional districts.

We need only review the experienced difficulties encountered in States whose constitutions give their governors item-veto power to readily see that serious constitutional questions are inherent in such a proposal if it were to be put in place at the Federal level, regardless of the size of the number required to override. State courts have had to grapple with the interpretation of the word “item.” It is confined to dollar amounts? Or does it also comprehend “substance” as well as dollar amounts?

I must caution my Senate colleagues regarding another fact that is often overlooked in the debate over the item veto: the equality between the two Houses would be negated regarding appropriations bills. This inequality would apply equally to enhanced rescissions. The Constitution requires that vetoed bills be returned by the President to the House in which the bill originated. Since regular appropriations measures customarily originate in the House of Representatives, the Senate being thereby limited to the offering of amendments, vetoed appropriations bills are, and will likely con-

tinue to be, returned by the President to the House. If the House were to decide not to attempt an override of Presidential rescissions or of item vetoes or if a House effort to override should fail, the Senate would never be given a second chance to reenact the appropriations it had originally supported. Only in the unlikely event of a House override would the Senate get a second try at bat. The House would always have a choice as to whether or not to go for the override. If it chose not to try, its decision would automatically deny the Senate the opportunity, even in instances where the items vetoed or rescinded by the President had been added in the Senate. Hence, the President could insure his veto against an override simply by choosing to veto only those items added by Senate amendments—amendments in which the House itself had little or no interest, and concerning which the House would be most unlikely to mount an effort to override.

Simply put, the item veto is a Pandora's box, and it should not be opened. Even were only a majority to be required in order to override—as some would suggest—let's leave this jinni in the bottle where it has rested now for over 200 years—undisturbed!

In the recurring debates over the years concerning the item veto, much has been spoken and written about the so-called "pork" in appropriations bills. Proponents of the item veto wax eloquent when they go after "pork barrel" spending. If Voltaire were here, he would probably say, "If you wish to converse with me, define your terms." Just what is "pork"? Is it to be defined only by the beam in the eye of the beholder? If one listens closely to the advocates, it becomes indubitably clear that the working definition of "pork" is a project that Congress wants and the President does not, or a project that is in somebody else's district. On the other hand, the projects the President wants—for example, the superconducting super collider, which dwarfs—dwarfs—the normal Congressional items in the pork barrel, to say nothing of the space station—are not to be stigmatized as "pork."

I chair the Subcommittee on Appropriations for the Department of the Interior and related agencies, and I annually review the hundreds of requests that I receive from colleagues on both sides of the aisle who want funds from my subcommittee for programs or projects affecting their respective States. I, of course, shall not identify such Senators, but it has caught my attention that there are a good many Senators who strongly champion the item veto, yet, who quite unabashedly request funds from my subcommittee for their own State projects. Those projects would be bait for enhanced rescissions or an item veto by the President if he possessed such powers. This proves that there is, in fact, an exception to the old saying that you can't have your cake and eat it, too. We can, indeed, have it both ways!

In any event, just as one man's meat is another man's poison, one man's "pork" is often another man's job. Much of the vaunted pork is for rivers, dams, harbors, and water resources projects, or for highways, mass transit, and other transportation items. Pork or not, this Nation suffers from an infrastructure deficit, and such projects are important in meeting the transportation, flood prevention, industrial and commercial needs of the Nation. They also provide construction jobs and strengthen local and regional economies

and bring increased revenues into government coffers at Federal, State, and local levels. Pork? Navigational improvements of our rivers, the deepening of our ports and harbors, and the building of lighthouses. All these enhance the Nation's shipping of manufactured goods, agricultural products, and raw materials, and they promote safety. Dams improve water quality, provide recreation, protect people and towns against floods, provide water for power, and husband water for release in seasons of drought. Pork? Improved water and rail and motor transportation helps to increase the productivity of workers, and increased productivity is the key to growth in the economy. Pork? If all this is pork, then the Nation needs more of it, for a nation—like a company—that does not invest in its plant and equipment, its people and its future, is bound to fail in the long run. Moreover, the item veto would only substitute a President's pork for Congress' pork, and were a President to possess this power, we would probably end up with greater spending, rather than less, at the Federal level, as the President would be telling Congressmen: "If you will vote for what I want in the bill, I will not cut out what you want." So there would be more pork than ever. If the Chief Executive were ever to be given this long handled barbecue fork—the item veto—he would become pre-eminent in the legislative process—the Chief Legislator, the super wheeler and dealer!

Moreover, if the President were given item veto or enhanced rescission authority, who, in the executive branch, would select the "items" to be vetoed? It would not be the President. Certainly the President does not have the time or the expertise to make such determinations involving thousands of discrete items scattered throughout the vast Federal budget. The fact is that such decisions would generally be made by bureaucrats in the Office of Management and Budget and other executive branch agencies before being channeled up to the Oval Office. Therefore, the fate of untold numbers of appropriations items affecting various and sundry projects and programs would rest in the hands of anonymous people who are not elected and who do not have to face the voters. The veto pen would be wielded by the President's hand, but, for all practical purposes, the items rescinded or stricken would be determined by individuals unknown to the Congress, unknown to the people and, in many instances, unknown even to the Chief Executive himself. Surely the Congress would think more times than twice before turning over a share of the purse strings to scores of administrative functionaries in the executive branch who would thus become de facto legislators, yet who would be unaccountable to the electorate.

Still, the proponents of the item veto and enhanced rescissions claim that the President needs such authority in order to put the brakes on congressional spending. The claim is misleading and should be seen for what it is: budgetary mythology. The fact is that Congress, over the years, has spent less than Presidents have requested in their budgets. For example, former President Reagan's budget requests during his eight years in the White House totaled \$4,587,429,688,727. Congressional appropriations for those years amounted to \$4,571,282,018,726, or \$16,147,670,001 less than President Reagan asked for. If we wish to examine a longer period, let us look at the 44 years between 1945 and 1988, inclusive. The

various administrations, Democratic and Republican, during that time requested \$9,597,329,175,096, while the total of all annual, supplemental, and deficiency acts, all regular appropriations bills amounted to \$9,409,700,347,968, which was \$187,628,827,128, or .019 percent, under the combined budget requests of Presidents Truman, Eisenhower, Kennedy, Johnson, Nixon, Ford, Carter, and Reagan. Thus, while devotees of the item-veto like to picture frugal Presidents valiantly struggling to keep spendthrift Congresses in check, the record does not support their case, certainly not with respect to Appropriations Committee actions.

Furthermore, over half of the total Federal budget is outside the control of the congressional appropriations process and would, therefore, be beyond the ability of the President to item-veto or rescind even if he were to be granted such powers.

What did President Reagan and what does President Bush have in mind as the target for cuts if given the item veto and enhanced rescission power? Obviously, not defense or foreign aid. What this means is that education, water and sewage treatment facilities, environmental and toxic waste cleanup, scientific research, air safety, job training, health services, harbor and port improvements, flood prevention projects, transportation, essential air service to rural areas, and other national needs would get the item veto knife. Is this what Senators want? Is this what the Nation's Governors want?

They want the line-item veto. Watch them scream if the President were ever to be given the line-item veto. The Federal checks that they like to wait and have their hands out waiting for will not come. How would they then balance their budgets? Is this what the people want? These are investments in people, investments in the Nation's infrastructure, investments in the Nation's future. A company that does not invest in new plant and equipment and in the education and training and wellbeing of its employees will fail. Likewise, a nation that does not invest in its infrastructure, in the education and training and health of its people, and in research and technology will find itself unable to compete economically, industrially, scientifically, and culturally with other nations, and its standard of living will fall. Is this what we want for our country? This is the part of the overall budget that has taken the brunt of the cutting knife over the past 10 years. Is this where the budget will be balanced by further cuts?

Mr. President, the item veto would encourage creation of more entitlement programs. Because if there existed a danger that the President would line-item out, or use his enhanced rescissions powers which this amendment is giving, if he should line-item out the programs that were popular with Members and with their constituents, then why would not Members resort to passing of legislation giving those programs entitlement status so that it would be automatic thereafter? The President could no longer line-item veto them then.

So what this would mean, as I say, is that to give the President the line-item veto would encourage creation of more entitlement programs. Once in place, these would be beyond the reach of the veto power because such backdoor spending is not subject to the discriminating control of annual appropriations. Senators should

also be aware that, although, the national debate over the item veto has confined itself to the so-called "pork" in appropriations bills, such a veto could also be extended to apply to tax-revenue bills and other authorization bills. Why subject only the appropriations bills to an item-veto power and not revenue-raising bills or other authorization bills? Legislation to authorize new and costly social programs, agricultural support programs, defense authorization bills, and other authorizing measures such as acid-rain and environmental bills could also be made subject to the item veto.

That would be the purpose of the amendment which I would offer as a second-degree amendment to the pending amendment. Let the legislation that is within the jurisdiction of all of the committees be subject to the line-item veto as well as appropriations bills. Is that what we want?

I have an amendment that would provide that across the board all the committees would have their legislation subject to the item veto. How would the Armed Services Committee like to have its legislation sent down to the President and he can line-item out the items he did not want? The Armed Services Committee might want those items. The President could line them out.

I do not believe that the chairmen of authorizing committees want to see that happen. That would be the next step. It might even be the step here. If the Senate wants to take that action, it will have the opportunity. And if it should not take it now, on another day at some future time if the line-item veto is ever imposed on appropriations bills, get ready. The rest of the committees might as well get ready because it will not be long until the line-item veto will embrace and swallow them as well.

If we want to give the President a real hold on Government spending, it can be done by authorizing him to cut "items" out of legislation that authorizes back-door and other spending programs. In this way, he can kill the "authorizing" egg before it ever hatches into the "appropriations" chicken. The appropriations committees do not operate in a vacuum. Normally, they appropriate funds for programs that have been previously created by authorizing legislation enacted into law and signed by the President. Why not, then, give the President the power to item veto authorization acts passed by Congress, so that by closing the authorizing valve at the head of the line he can assure that there will be no appropriations that will flow through the spigot? Sounds interesting, does it not? How many members of the Labor and Human Resources, or Agricultural or Commerce, or Environment and Public Works, or Finance, or Armed Services or other authorizing committees would welcome that kind of a shift of power to the President?

How many ranking Members on the other side of the aisle would like to see their authorizing committees protected from the line-item veto, or from the enhanced rescissions powers?

Senators on authorizing committees who are eager to shift power to the Executive by giving him an item veto over appropriations should be aware that sauce for the goose can also be sauce for the gander. I submit that if the Senate is going to be forced to vote on the one, it should be also forced to vote on the other, and I shall try to see that it does, if that becomes necessary.

The Reagan and Bush administrations, in pressing Congress to grant line-item veto and enhanced rescission powers to the Chief Executive, have sought to frame the debate around the argument that such authority is necessary to allow the President to cut Federal spending, eliminate the deficits, and balance the Federal budget. But the real issue here is much broader than that of balanced budgets—and, incidentally, neither President Reagan nor President Bush has ever submitted a balanced budget to the Congress during their 10 years of running the Government.

The real issue is power. That is the issue. Anyone who doubts this will find most illuminating the following statement by Mr. Richard Darman, Director of OMB, during a May 13, 1990 appearance on ABC's "This Week With David Brinkley." I happen to get along very well with Mr. Darman. I like him. But I think since this is public information anyhow, I will just use it here.

Mr. George Will, a columnist who likes the line-item veto said: "The line-item veto was used by Governors Reagan, Thompson of Illinois, Thornburgh of Pennsylvania. . . . It's an interesting management tool, but no one really thinks that's a way to cut the kind of deficit we're talking about. Are you suggesting that?"

Mr. DARMAN. No. . . . In and of itself, it isn't directly a significant way to cut the deficit. What it does do is it transfers a degree of power to the Executive branch and gives the President, in the case of the Federal Government, a stronger position in negotiations. That stronger position could be used, for example, to get savings in other program areas."

So, Mr. President, I repeat that the real issue is power, just as Mr. Darman said on that occasion. It goes to the very heart of our constitutional system of checks and balances and separation of powers. Power. I do not want to see that power in the hands of any President. I do not want to see it in the hands of a Republican President. I do not want to see it in the hands of a Democratic President.

It is not a battle over turf; it is a battle over the division of powers between the executive and the legislative branches of Government. That division and balancing of powers between these two branches—setting aside the third branch, the judicial, in the context of this argument—is what is fundamentally at stake here, and the sooner this is understood, the more clearly will appear both the folly and the danger of the proposals being advanced.

The central mainspring in our constitutional balancing system is control of the purse. Just as the love of money is, according to the Scripture, the root of all evil, so is money the milk of politics and the grease of government. The item-veto debate, when shorn of all of its fancy trappings, is a debate about power, and control of the purse is the bone and sinew of power.

I did not put that power here. The constitutional Framers put it in the legislative branch—the power of the purse—and that is where it ought to stay. That is where it has been these 200 years. I have already related in an earlier speech how those Framers, who met in Philadelphia in 1787, knew about the history of England, about the long struggle of Englishmen to wrest the control of the purse away from tyrannical monarchs and place it in the hands of the representatives of the people in Parliament.

In the pages of history, we have witnessed the centuries-long struggle for Anglo-American liberty, and the parallel struggle for power over the purse—the safeguard of liberty—when that power remains vested in the legislative branch, the branch of government that is closest to the people. It is a historical positive that was clearly stated by William Ewart Gladstone in a speech at Hastings on March 17, 1891. He said:

“The finance of the country is ultimately associated with the liberties of the country. It is a powerful leverage by which English liberty has been gradually acquired. . . . If the House of Commons by any possibility lose the power of the control of the grants of public money, depend on it, your very liberty will be worth very little in comparison. That powerful leverage has been what is commonly known as the power of the purse—the control of the House of Commons over public expenditure.”

Mr. President, Gladstone was right in associating the “power of the control of the grants of public money” with one’s “very liberty.” The power to appropriate money or to withhold its appropriations is the power to shape public policy and determine the Nation’s priorities. The Founding Fathers placed this power squarely in the hands of the legislative branch, specifically providing that money can be drawn from the Treasury only as a consequence of appropriations made by law and providing that only the Congress can make such law. The only participation the President was given in the process was by way of a qualified negative, a qualified veto, which could be overridden by a two-thirds vote in both Houses of the Congress. The President was limited to accepting or rejecting the congressional enactment in its entirety. He could not pick and choose. It was all or nothing. The priorities were to be determined by Congress, not the President. In determining the priorities, Congress—not the President—would make public policy. Whether the public purse would be tapped to clean up the Nation’s toxic wastes, deepen the Nation’s harbors, provide aid to education, or place a man on the Moon, would be determined by the people’s directly elected Representatives in Congress, not by a President chosen indirectly by the people through electors. The power over the purse was not concentrated in one man, the President, but was diffused among many representatives of the people and of the State sitting in two separate Houses of Congress. That is what the Constitution of the United States provides. That is not provided by the constitutions of the 50 States. The power of the purse was not vested in the legislative branch by State constitutions, but by the Federal Constitution. The Framers knew that liberty would best flourish where power was least concentrated, and they established a system of separated powers as a safeguard against tyranny. Reciprocal restraints between the legislative and executive branches are fundamental to the operation of the system and the preservation of the people’s liberties.

I hope the Governors will study the Constitution of the United States. They have tough jobs. They have to know something about their State constitutions. But they also ought to be able to recognize the difference in their own State constitution and the Federal Constitution.

Surely, if they know that difference, they had been able to grasp the fundamental principle that the power of the purse is the foundation stone of this constitutional system and that power of the purse is lodged in the Congress of the United States. And that although at the State level, they, the Governors, may have the line-item veto, they are two different spheres—the State and the Federal Government. They operate differently and have different responsibilities.

And I would assume that the Governors of the States are as equally jealous of the separation of powers and checks and balances of the Federal Constitution as those of us in this legislative branch. But, as I say, perhaps they have not read the Constitution lately.

The most effective instrument of restraint possessed by the legislative against a powerful executive branch is the control of the purse, and were the President to be granted item veto or enhanced rescission authority it would seriously unbalance the delicate system that was put in place by the Constitution. Just as water does not flow uphill, so would the flow of power to the executive be permanent, the legislative branch would be correspondingly weakened for all time. The power to set the Nation's priorities, and the initiative on spending as a determinant of public policy would be transferred to the hands of an imperial President.

It is difficult to imagine how the Congress could deal a more fatal blow, not only to itself, but also to the basic structure of our Federal Government. The office of the Presidency is already the repository of awesome power. Its occupant is Commander in Chief, the head of the executive branch, the titular leader of his political party with extensive patronage at his disposal, and his "bully pulpit"—in this modern telecommunications age—gives him an enormous advantage in going over the heads of Congress to appeal directly to the people. If, in addition to these formidable strengths, he were given the item veto or enhanced rescission authority, he would become king in everything, except name only and Congress would be left with no check and balance over him other than that of impeachment.

Woodrow Wilson, in his book "Congressional Government," referred to the veto power as the President's "most formidable prerogative," and, by its exercise, "the President acts not as the executive but as a third branch of the legislature." If the President were to be armed with the item veto he would dominate the appropriations process and render the national legislature subservient to his will, even in matters independent of the appropriations function—such as treaties and Supreme Court nominations or the sale of the AWACS airplane to Iran or Stingers to Kuwait, or a capital gains tax. It would be to give the Executive a club which could be held over individual Members of the Congress, and even whole delegations, to coerce their cooperation on wholly unrelated legislative propositions in which the Executive was especially interested. Since money is the lifeblood of policies, the President could, by vetoing or rescinding items of appropriations, strike at those policies with which he was not in agreement—whether it be farm policy, REA, low-income public housing, aid to education, environmental cleanup, civil rights, or school lunch programs—and effectively negate, alter, or make them anemic. By rescinding the mon-

eys, he could cut off the life-support systems for any and all congressional programs which were not to his liking and for which a two-thirds majority in both Houses was lacking.

I hope that Senators will, if they thought once, I hope they will think again about this amendment, and I hope that my Republican friends will remember that they will not always have George Bush in the White House. They will not always have a Republican President in the White House. One day there is going to be a change. There will be a Democrat in the White House. And when that happens, as it surely will, one day, how then will they view the line-item veto and enhanced rescissions. How then would they like to have their programs in the hands of a President of the other party?

That is what I am thinking of, Mr. President. I am thinking of our Constitution, our constitutional system, and the wisdom of the constitutional Framers who placed the power of the purse here in this institution. And the only element that the President can exercise in that power is the veto. And it is a qualified veto as I have already, I think, demonstrated. That much, as President Bush says; No more.

With a line-item veto in his arsenal, the President with the support of only one-third plus one of the Members in either House could, by the item veto, defeat public policy supported by the remaining two-thirds minus one in that body and the unanimous vote of the other House. The other House could be unanimously against him. For a more dramatic example, though it is unlikely that such a combination would ever occur, take the 17 States of Alaska, Delaware, Hawaii, Idaho, Maine, Montana, Nebraska, Nevada, New Hampshire, New Mexico, North Dakota, Rhode Island, South Dakota, Utah, Vermont, West Virginia, and Wyoming. These States have a total population of something like 17½ million people, 17½ million out of 250 million. With the solid support of the 34 Members of the Senate, I hope my friends if they are not listening will read, with the solid support of the 34 Members of the Senate from these 17 States having a total population of only 17½ million, and representing only 5 percent of the entire population of the Nation, the President could thwart the will of the remaining 66 Members of the Senate and the entire 435 Members of the house, representing 95 percent of the people of the United States. Give the President those 17 States that I have named, here in the Senate, and he can thwart the will of the 435 Members of the House, and the other 66 Members of the Senate, if we give him the line item veto. While this, admittedly, is an extreme example, it nevertheless makes the point. Is this majority rule.

Originally, the veto was primarily designed to shield the executive from encroachments from the legislature. Without the veto, so Hamilton argued, "the former would be absolutely unable to defend himself against the depredations of the latter." To allow the President to set up his individual opinion against that of Congress in detailed matters of public policy, by empowering him with the item-veto weapon, would be to confer on the executive a legislative function entirely foreign to the original concept of the nature and purpose of the veto. He could exercise this item veto almost with impunity when his own party is in control of Congress.

Montesquieu's principle of separation of powers is a fundamental in the American constitutional system of government, to be observed wherever possible with only such overlapping as is needed to give effect to the other great principle of checks and balances. A transfer of control of the purse strings to the executive would be a major power shift and would threaten the very foundations of our Government. Such a concentration of power could be an enormous threat to civil liberties. Hence, the case for the line-item veto as a way to foster fiscal restraint is but a mere side show. The main event is in the big tent—the expansion of Presidential power. It should be avoided as one would shun the bite of an asp!

Mr. President, I have spoken now on the order of 6 hours. I hope that the Senate collectively will not have lost its mind, and that on tomorrow it will support the point of order which will be raised by the distinguished Senator from Tennessee [Mr. SASSER] and in so doing, will vote against the motion to waive the Budget Act.

If the motion to waive should succeed, then there will be a full-fledged filibuster, and it will take more than 60 votes to shut off the filibuster.

Mr. President, I thank the occupant of the chair for his patience and fortitude in presiding over the Senate during the time that I have held the floor.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Under the previous order, the majority leader is recognized.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate resumes consideration of S. 479 at 11:15 a.m. on Thursday, February 27, Senator SASSER be recognized to make a budget point of order against the pending McCain-Coats amendment No. 1698 and that Senator MCCAIN then be recognized to make a motion to waive the Budget Act; that there then be 2 hours and 10 minutes of debate on that motion to waive the Budget Act, with Senator DECONCINI controlling 10 minutes of that time, with the balance being equally divided and controlled in the usual form; that at the conclusion or yielding back of time on the motion to waive, the Senate proceed to vote on that motion; that if the motion to waive the Budget Act prevails, Senator BYRD be recognized to offer a second-degree amendment to the pending McCain-Coats amendment No. 1698, and that there be no further agreement with respect to proceeding on the bill thereafter; that if the motion to waive the Budget Act fails, there then be 30 minutes on the bill and on the committee substitute amendment, inclusive; and that the only amendments in order, in addition to the committee substitute be the following:

That they be first degree, except where noted otherwise, with limitations on debate as indicated:

Thirty minutes on an amendment by Senators BROWN and BIDEN relative to section 7 of the substitute; 5 minutes on an amendment by Senators LEAHY and THURMOND relevant to the committee substitute; an amendment by Senator WALLOP on reporting requirements; a second-degree amendment by Senator LEAHY to the amendment by Senator WALLOP; and 5 minutes on a managers'

technical amendment; that all allocations of time listed above be equally divided and controlled in the usual form; that no motion to recommit be in order; and that at the conclusion or yielding back of time on the committee substitute, the Senate proceed to vote on the adoption of the committee substitute amendment, as amended, if amended; read the bill for the third time; and vote on final passage of the bill, as amended, with all these steps occurring without any intervening action or debate.

The PRESIDING OFFICER. Is there objection?

No objection is heard. The request by the majority leader is approved.

February 27, 1992

[From the Congressional Record pages S2457-2478]

NATIONAL COOPERATIVE RESEARCH ACT EXTENSION

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of S. 479, which the clerk will report.

The legislative clerk read as follows:

"A bill (S. 479) to encourage innovation and productivity, stimulate trade, and promote the competitiveness and technological and leadership of the United States."

The Senate resumed consideration of the bill.

Pending:

McCain amendment No. 1698, to grant legislative line item veto rescission authority to the President of the United States to reduce the Federal budget deficit.

The PRESIDING OFFICER. Under the previous order, the Senator from Tennessee is recognized.

Mr. SASSER. I thank the Chair.

Mr. President, I rise this morning to raise a point of order against the pending amendment because it violates section 306 of the Congressional Budget Act of 1974.

Mr. MCCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. I move to waive section 306 of the Budget Act and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second. The yeas and nays were ordered.

Mr. SASSER addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

Mr. SASSER. Mr. President, I yield myself such time as I might consume.

Throughout Eastern Europe, indeed, much of the world—

Mr. MCCAIN. Could I interrupt and ask for a parliamentary inquiry as to the provision of time under the unanimous-consent agreement? I appreciate the indulgence of my friend.

The PRESIDING OFFICER. Under the previous order, the time is 2 hours, equally divided.

Mr. MCCAIN. Between myself and the distinguished President pro tempore?

The PRESIDING OFFICER. The Senator from Arizona and the majority manager of the bill.

Mr. MCCAIN. Under the rules, I believe that the President pro tempore should be allowing time to Senators.

Mr. SASSER. Mr. President, parliamentary inquiry. I was under the impression under the previous order I would be controlling time on our side for those seeking to sustain the point of order.

The PRESIDING OFFICER. The order provides division of time under the usual form. The Senator making the motion, and the majority manager controls the time.

Mr. SASSER. I thank the Chair.

Mr. MCCAIN. In other words, 2 hours, equally divided, between the maker—

The PRESIDING OFFICER. Two hours, equally divided.

The Chair would inquire whether the majority manager—

Mr. BYRD. Mr. President, I ask unanimous consent that the time be equally divided between Mr. MCCAIN and Mr. SASSER.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MCCAIN. I thank the Chair.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

Mr. SASSER. Thank you.

Mr. President, I yield myself such time as I might use.

Throughout Eastern Europe and, indeed, much of the world, people are struggling and fighting for democracy. They are struggling and have struggled to throw off the yoke of totalitarianism. In this time, when people are seizing back the rights of representative government, all-powerful rulers, it is ironic, indeed, that Members of this body are seeking to give away the powers of this Congress, powers for which our forefathers fought and died, powers that are given to us under the Constitution, powers that are transmitted to us through that Constitution by the voters of this country.

The amendment before us seeks to make a fundamental shift in power from the Congress to the Chief Executive, to the Presidency.

The amendment seeks to change what happens if no one acts after the President sends Congress to rescission proposal under current law. The rescission dies after 45 days and the appropriated funds become available.

Under the amendment that is offered here today, the rescission would take effect unless—unless—the Congress stopped it within 20 days.

Under the amendment being offered here today, in order to prevent a rescission from taking effect, Congress would have to adopt and the President sign a joint resolution disapproving the rescission.

The sponsors of the amendment claimed that Congress could restore the funds with a majority vote. But, Mr. President, that begs the question. Since the President, would have just sent up the rescission he would be very unlikely to sign a joint resolution of disapproval—he would more likely veto it, and Congress would thus need a two-thirds vote of both Houses to pass the resolution without the President's signature.

It would reduce this body and our colleagues on the House side, the elected Representatives of the people, to no more than rubber stamps to the Chief Executive on matters dealing with the purse.

As the President pro tempore of the Senate warned so eloquently yesterday, the amendment before us today has very dire constitutional implications. The amendment seeks to give the President the functional equivalent of a line-item veto without having to pass a constitutional amendment, enhancing the President's veto power. This is a back-door approach, Mr. President, to amend the Constitution of the United States that has served this country so well for over two centuries, that has given us a constitutional government that is the envy of the world and that peoples all over the globe now are struggling to emulate.

The distinguished President pro tempore of the Senate has made this point so ably that I shall not belabor it here today.

Mr. President, the amendment conflicts with the constitutional principles of separation of powers. Giving the President this power would yield additional legislative powers to an already powerful executive. The President would be able to direct the writing of legislation under the threat of rescission any time he has 34 Senators on his side.

The amendment would also threaten the constitutional principle that the power of the purse—one of the few checks and balances Congress has on the Presidency short of impeachment—is vested with the Congress. The power of the purse is the power that legislatures in the English-speaking world have jealously guarded for centuries and generations, as the President pro tempore as effectively detailed yesterday.

It is a well-known fact that political power follows the power of the purse.

As a practical matter, the procedure that is being offered today would not balance the budget. After accounting for expenditures required by law, such as interest on the national debt and entitlements, so-called mandatory payments, the remaining discretionary expenditures subject to rescission amount to a very small portion of the overall budget. The proposal would apply to appropriations bills and not to authorization measures, not to revenue proposals.

The administration itself has consistently made the case that the appropriated portion of the budget is not the cause of our deficit problem.

The matter in the pending amendment, I might say parenthetically, Mr. President, is clearly within the jurisdiction of the Budget Committee pursuant to the standing order on the referral of the budget-related legislation. The Budget Committee has not reported either the pending bill or the pending amendment.

Under section 306 of the Congressional Budget Act, a point of order lies against legislation dealing with matters within the Budget Committee's jurisdiction if the Budget Committee has not reported it out. Under section 904(c) of that act, the votes of 60 Senators will be necessary to waive that point of order, as my colleagues know.

This is not the first time this matter has come before the U.S. Senate. The Senate has spoken on this amendment before, twice in the last 3 years to be precise. The Senate has wisely rejected at-

tempts to waive the Budget Act for amendments that are nearly identical to that one before us today.

On November 9, 1989, the Senate voted 51 to 40 against waiving the Budget Act for a Coats amendment to enhance the President's powers of rescission. In other words, the proponents of the amendment fell 20 votes short of what they needed to consider the amendment under the rules.

Again, on June 6, 1990, the Senate voted 50 to 43 to reject a motion to waive the Budget Act for a McCain amendment identical in substance to the earlier Coats amendment. That day, the proponents fell 17 votes short of what they needed under the rules.

The proponents of the amendment make no secret of the fact that they are merely attempting to press the President into exercising a line-item veto, without a change in the Constitution and without a change in the law.

Mr. President, such a move by the President of this country would be a naked power grab of the most blatant kind. Such a move would fly in the face of the plain language of the Constitution. As the distinguished President pro tempore so ably explained yesterday, the history of the Federal Convention of 1787 very plainly demonstrates that the Founders did not intend to give the President such power.

Those who argue that the President already has a line-item veto point to article I, section 7, clause 3 of the Constitution, which states:

"Every Order, Resolution, or Vote to which the Concurrence of the Senate and House Of Representatives may be necessary (except on a question of Adjournment) shall be presented to the President of the United States; and before the Same shall take Effect, shall be approved by him, or being disapproved by him, shall be repassed by two thirds of the Senate and House of Representatives, according to the Rules and Limitations prescribed in the Case of a Bill."

Advocates of the President's inherent line-item veto power argue that this clause allows the President to veto parts of bills because it provides power for the President to veto votes.

This position runs contrary to the history of the provision in the Federal Convention of 1787. The clause was added on August 15 and 16, 1787. At the close of debate on August 15, 1787, James Madison noted that the reference to bills in what would become the second clause of section 7 might create a loophole for resolutions. According to Madison's notes of debate at the Convention:

"Mr. Madison, observing that if the negative of the President was confined to bills; it would be evaded by acts under the form and name of Resolutions, votes et cetera, proposed that 'or resolve' should be added after 'bill' in the beginning of section 13. with an exception as to votes of adjournment et cetera—after a short and rather confused conversation on the subject, the question was put and rejected, the States being as follows:

"New Hampshire no. Massachusetts aye. Connecticut no. New Jersey no. Pennsylvania no. Delaware aye. Maryland no. Virginia no. North Carolina aye. South Carolina no. Georgia no."

Edmund Randolph proposed a revision of the proposed language the next day. Madison's notes recount:

"Mr. Randolph having thrown into a new form the motion, putting votes, Resolutions et cetera, on a footing with Bills, renewed it as follows: 'Every order resolution or vote, to which the concurrence of the Senate and House of Representatives may be necessary (except on a question of adjournment and in the cases hereinafter mention) shall be presented to the President for his revision; and before the same shall have force shall be approved by him, or being disapproved by him shall be repassed by the Senate and House of Representatives according to the rules and limitations prescribed in the case of a Bill.'

"Mr. Sherman thought it unnecessary, except as to votes taking money out of the Treasury which might be provided for in another place.

"On [the] Question as moved by Mr. Randolph.

"New Hampshire aye. Massachusetts: not present, Connecticut aye. New Jersey no. Pennsylvania aye. Delaware aye. Maryland aye. Virginia aye. North Carolina aye. South Carolina aye. Georgia aye.

"The Amendment was made a Section 14 of Article VI."

The history of the constitutional provision cited by the advocates of the President's inherent line-item veto power thus shows that the Framers meant merely to ensure that joint resolutions and other legislative vehicles—not strictly bills—would be constrained by the same requirements as bills.

Many of the Framers who participated in the 1787 Convention went on to serve in the first Congress, which sent the President as its first appropriations bill an omnibus appropriations bill to fund all of the Government. Similarly, had James Madison believed that the language he called for at the Convention empowered the President to exercise a line-item veto, then surely he would have exercised it himself when he was President.

In sum, Mr. President, the President has no authority to exercise a line-item veto. If he does so in the face of the plain constitutional language to the contrary, he will engender a constitutional crisis of the first order.

Mr. President, in conclusion, I simply state that a point of order plainly lies against the amendment pending before us today under section 306 of the Congressional Budget Act of 1974. I urge all Senators to vote against waiver of that point of order.

Mr. President, I also designate the President pro tempore to control such time as I might have remaining under my control under the unanimous-consent request.

I urge all Senators to reject the motion to waive the Budget Act for the pending amendment.

Mr. BYRD. If the Senator will yield, Mr. President, I thank the distinguished Senator for his statement, I thank him for the position he has taken consistently, and I thank him for yielding the time.

The distinguished Senator indicated that, under the amendment the thrust would be directed toward the appropriations committees and appropriation bills.

May I say to the distinguished Senator that I have an amendment which, if the waiver is granted, I will offer to the amendment by Mr. MCCAIN. My amendment will put the authorizing commit-

tees, as well, under the tent, so that if there is going to be a line-item veto, it will not be just directed toward appropriations alone but it will be directed toward authorizing bills, as well. It will be across the board.

Mr. SASSER. I thank the distinguished Senator for that explanation. I agree with him. I do not expect this amendment to be successful. I expect this amendment to be soundly defeated, as have amendments similar to it on prior occasions. And I am sure that after our colleagues listened yesterday to the very extensive and exhaustive and, I might say, eloquent explanation made by the distinguished President pro tempore in opposition to this amendment, I expect that this amendment today will be defeated as soundly, if not more so, than those that have preceded it in prior years.

The distinguished President pro tempore, I think, raises a very valid point here. The proponents of this amendment are advancing under the guise of seeking to reduce the Federal budget deficit. The problem that we encounter here is that this amendment would really impact only on the appropriated accounts, and a cursory review of the history of the Federal budget over the past 30 years would indicate very quickly that the problem is not the appropriated accounts. The massive growth in the Federal spending has occurred in the so-called mandatory accounts, the so-called entitlement areas and, of course, they would not be impacted at all by the amendment offered by the distinguished Senator from Arizona.

Also, it would not impact on the problem of the interest on the debt. That has become the fastest growing component of the Federal budget, I am sorry to say.

So what we are being asked to do here in the final analysis is really to do damage to a well-established constitutional principle that springs from Anglo-American history, that is time-proven, and that has been proven by over 200 years of experience in this country, and proven by many centuries of experience by our friends across the Atlantic in the British Isles.

There was an old saying that was popular around here a few years ago that went something like this, and in the vernacular it was: "If it ain't broke, don't fix it." And this budget process of ours is not broken to the point that it needs this sort of Rube Goldberg, jury-rig fix which, in my view, would make matters only worse and give the people of this country even less control over their own affairs than they have at the present.

Mr. President, I am going to yield the floor at this time and, as I said earlier, the distinguished President pro tempore will control the remainder of the time.

The PRESIDING OFFICER. Who yields time?

Mr. MCCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I cannot help but comment on the statement of my distinguished friend from Tennessee that the budget process is not broken sufficiently. Anyone who looks at our \$4 trillion debt and thinks that the system is not broken, I suggest might take another look. And that view is certainly not shared by the overwhelming majority of the American people who, for generations to come, will have to shoulder the burden of this broken budget process.

I would like to yield as much time as he may consume to the Senator from Indiana.

Mr. COATS. Mr. President, I thank the Senator from Arizona for yielding time. I also will save most of my remarks for closing.

Let me take this particular opportunity to just explain to our colleagues exactly what it is we are looking at here, because I think there are some misconceptions within the Chamber and among certain Members as to what this bill actually does, and what it does not.

It does not gut the ability of Congress to control the power of the purse. It does not take away our ability to exercise spending authority, to make decisions about how we ought to spend the taxpayers dollar.

What it does is attempt to right an imbalance that in this Senator's opinion was created in the 1974 Budget Act, which in response to an exercise of impoundment which was exercised by then President Nixon in an attempt to control what he felt was excessive Federal spending, the Congress enacted a provision which was designed to restore, in Congress' view, some balance between the legislative branch and the executive branch.

But what we have seen since 1974 is the creation of a significant imbalance. Because in attempting to restore a so-called balance, we took away from the executive branch a power that it had exercised for nearly 200 years under our Constitution. In doing so, what we found is that the Congress tipped the scales dramatically in its own favor and literally wrote the executive branch out of the ball game.

Because what happens now is that legislation is sent to the President on a take-it-or-leave-it basis, an all-or-nothing basis. Massive appropriations bills, appropriating hundreds of billions of dollars, are laid on the President's desk and the President has no authority whatsoever to look at that legislation and say: I like 85 percent of it; I like 95 percent of it; I like 99.9 percent of it; I just am not willing to accept what I think is a totally unnecessary line item of spending that was clearly attached for the benefit of a few, or perhaps even one Member of Congress because they happen to be in a position to attach that.

There was no hearing, no debate, no separate public discourse or Senate discourse on the item, and no accountability, no vote; simply an item stuck in to benefit a small purpose. That is not what the Federal Government is about, and that is not what I think it should be about.

I think the misconception comes at this point, because I think Members think, well, if we give the President authority under the McCain-Coats legislation, then the President will simply line that item out, and that is the end of it, and the Senate and the House—the Congress—will have no recourse. That is not true.

That is not what the legislation propounds. The legislation simply attempts to restore a balance wherein the Congress can send the President anything they want, and the President can look at this and simply say: I will take all of it except A, B, and C.

And the President then sends back in a message to Congress those items that he does not think appropriate, and the Congress then can overturn the President's decision by simply voting a reso-

lution of disapproval. And in doing so, it can restore that item that it had attached to that bill in the first place.

Now, of course, the President has veto power over that, like he has veto power over anything else that we send him. What will this do? It simply will force Congress to justify its spending; it will force Congress to debate and to put light on its spending; it will force Members to come to the floor or to the committees, or whatever, and simply say: I think this is a priority; let me tell you the merits of this particular project.

If he can convince, or she can convince, 50 of his or her colleagues, then that item will be restored.

So it creates a balance that was lost in 1974. It creates a new balance of equity between the two branches. It does not deny any Member of Congress the right to attach anything he wants to any bill that he wants.

I suspect that what will happen is that, knowing that the Executive has the ability to line-item, Members will be a little more careful about which items they ask to be attached to bills. And they will select those items they deem justifiable in the eyes of their colleagues, justifiable in the eyes of their constituents, justifiable in the eyes of the American people, because they know there might be some light shed on that particular item.

Annually, this body goes through public embarrassment as the media and the American public hold us up to ridicule for items that are attached to bills that have no relationship to that appropriation whatsoever, that are obviously self-serving. It becomes the butt of jokes on late-night talk shows, and it denigrates this institution.

If we cannot enact a simple procedure whereby we exercise some restoration of balance and restraint on the way in which we spend taxpayers' money, particularly at a time when we are running an annual deficit of \$300-and-some billion—and some say more, depending on how you account for some items—and our national debt is approaching \$4 trillion; if we cannot exercise some element of restraint, then I think this institution is incapable of dealing with some of the bigger questions that admittedly have to be answered.

Senator McCAIN and I have never intimated or claimed that this legislative line-item veto will solve all of our deficit problems. It will not solve all of our deficit problems. It only affects a certain portion of spending. It does not do anything to entitlement spending or mandatory programs.

It is not an insignificant amount. GAO has estimated that in the 5-year period in the mid-eighties, had the President had this authority, we would have saved \$70 billion. That is not an insignificant amount.

Will that balance the budget? No. Will that eliminate our national debt? No. But it is a start. It is a step in the right direction; it is a first step. If we cannot take the first step, how can we take bigger steps? At some point, this institution is going to have to face up to the music; they are going to have to look at that debt. They are going to have to stand and face future generations and explain why it is that we are saddling them with so much debt.

We do not have the political will or the political courage to do this as an institution right now. But I hope that we will at least have the political courage and the will to take a small step in re-

storing what I believe in some equity to the process. It is almost as if we are addicted to spending, and we need something to save us from ourselves.

So the legislation that is before us, S. 196, which I introduced on January 3, 1991, along with Senator MCCAIN and nearly 30 of our colleagues here in the Senate, the Legislative Line-Item Veto Act of 1991, requires that the President determine that his rescission that he sends forward will help balance the budget, reduce the Federal deficit, or reduce the public debt, and will not impair any essential Government functions. Do not let anyone be laboring under the misconception that this is going to impair an essential Government function, because the President specifically has to certify before he sends his rescission that it does not do so, and that the rescission will not harm the national interest.

It is a pretty rigid test. It does not mean the President can willy-nilly take out some of the important programs we feel are essential to the operation of this Nation and the functioning of this Government. Do not let anybody come down to the well of this House and vote, thinking that this is going to take out Social Security; this is going to take out needed veterans' benefits; this is going to deny poor, indigent women and others needed Government benefits. That will not be the case under this.

We know what this will do. This will stop the pork barrel that has been held up to ridicule every year in the media and among the public; that is the butt of talk show jokes that ridicule and denigrate this very institution.

That is what we are after.

There is a procedure set out, a reasonable procedure, that will ensure that this institution, this body, will responsibly handle the request in an expedited period of time.

There are procedures set out that will ensure that we do not play the usual games in maneuvering the legislation so that we do not have an up-or-down vote on the very item in question; so that the amendments are not procedurally fuzzed up so that the public does not know what we are doing. There are expedited procedures so we do not tie up this Senate on items that some might consider trivial in endless hours of debate.

It is a bill that was forged with tough, hard negotiations between Members of this body who have been active on this issue for a considerable period of time, who each had their own ideas about how we might begin to fashion some reasonable response to a public clamoring that we do something about excess spending in this body.

We gathered together in a number of sessions, and we hammered out a proposal; we ran it by constitutional experts and others; we sought the very best advice that we could get. And we came up with S. 196.

And that is the issue that we are voting on here today. That is the issue that Members need to be aware of, the procedures that are set out here and the fact that this is not an egregious usurpation of legislative authority. It is simply a restoration of equity and balance, and frankly, it is a way to save us from ourselves.

It is embarrassing to me. It is embarrassing to my constituents. It is embarrassing to the American public how we spend their tax

dollars and at the same time go back and tell them we are in dire straits, that the national debt and the deficit prevent us from passing programs that many think are needed, that address very real concerns of this country.

But, no, we do not have the funds to be able to do that. And yet we have the funds to fund a whole list of items that GAO said totals in the billions of dollars. We have the ability to do that. The public looks at those and says, "That is the most self-serving piece of legislation I have ever seen. What does that do for the national interest? What does that do for national priorities? What does that do for future generations in terms of their ability to pay back this national debt?"

If we cannot take this small step today, then I do not know what larger steps we will ever be able to take. So I am urging my colleagues to carefully look at this legislation, see it for what it is, and come down here and have the courage to take that first step toward fiscal responsibility.

Mr. President, I thank the Senator from Arizona. As I said yesterday, he has been a tireless crusader for this cause. He has encouraged me when I thought maybe we do not need to go ahead, because each time we bring it up we just cannot seem to muster the necessary majority. He has said, no, we need to stay on this, we need to keep going, we need to keep making the point because at some point the American people will become so outraged over our inability to get any kind of control or fiscal sanity in this situation that they will demand that their Senators come down and support this effort. So let us keep going.

I appreciate the incentives and bucking up that he has given me to keep my eyes focused on the goal, keep focused on the problem, and keep pursuing this effort. And I thank him for his invaluable help and his persistence. It has been a joy to team up with him on this. I think we can assure our colleagues that we are going to keep talking about this, keep raising this question until this body and the American public insists that it face up to its responsibilities in a responsible way.

Mr. President, I thank the Senator for the time. I am hoping to reserve some for final argument before we vote.

The PRESIDING OFFICER. Who yield time?

Mr. MCCAIN. Mr. President, I yield 5 minutes to the Senator from New Hampshire.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized for 5 minutes.

Mr. SMITH. I thank the Senator from Arizona for yielding.

I want to commend him and Senator COATS for their leadership on this very important issue. The line-item veto is something that the American people support. It is something that is necessary to move this budget process off center and away from a \$4 trillion national debt, which we now have at our disposal, which our children now are going to be forced to pay for and their children as well; as a matter of fact, probably their grandchildren and the grandchildren beyond that before this \$4 trillion debt is paid off.

This is only one small way to deal with it. The process is broken as Senator MCCAIN commented a few minutes ago in response to Senator SASSER, the process is very much broken. The American

people know that it is broken, and the line-item veto is one way to deal with it.

It was said on the floor yesterday that some of us who are out here in favor of a line-item veto would not support that veto were we to have a Democrat in the White House. Let me go on the record as saying I support it if there is a Democrat in the White House. I hope that does not happen in the near future, but, if there is a Democrat in the White House, I will still support the line-item veto because the President ought to have that authority because he can make decisions that the Congress apparently does not have the courage to make in terms of budgetary matters.

What this amendment will do, the amendment of Senator MCCAIN and Senator COATS, will, frankly, make the Congress do one very simple thing: vote in the light of day on many of the projects that we are so intent on funding with borrowed money. We are going to have to be held accountable. That is the issue.

If there were a rollcall vote, would we spend \$1.7 million for a facility to study how to genetically alter africanized honey bees to make them less aggressive? Would we spend \$1.7 million on that if there were a vote? I do not think so. The line-item veto, even with a Democratic President, I think, would line that out.

If there were a rollcall vote, Mr. President, would we spend \$225,000 to build an onion storage facility at the University of Georgia? I do not think so.

If there were a rollcall vote, would we spend \$1 million to refurbish a sports stadium in New Orleans?

And if there were a rollcall vote, would we spend \$5 million on a parliament building in the Solomon Islands?

How about \$25,000 to study the location for a new House of Representatives gymnasium? Mr. President, would we spend \$25,000 for that if there were a rollcall vote?

All of these items and many more like them, hundreds of millions of dollars more like them, would be lined out by any President of the United States, but they will not be lined out by this Congress.

It is morally wrong, as Senator MCCAIN said yesterday, to tell a veteran or a person on Medicare or a child that needs a vaccination that we cannot find money for that when projects like this are being funded every year in this Congress. It is morally wrong. How do we tell 17,000 workers that are going to be laid off at General Motors that their Government appropriated \$140,000 for swine research in Minnesota? That is what we are doing.

This Nation is in debt. Every child born as we speak right now is \$13,000 in debt. My advice to all of the American people to pay your debt today because it is going up. It is going to be more than \$13,000 by the time the debate on this matter is finished. A family in New Hampshire unable to make ends meet, or in Arizona or Indiana or West Virginia does not need to go out all night on a spending spree, and neither should their Government.

Yesterday Senators listened to a very detailed and exhaustive argument against the line-item veto. Senators should be aware that this amendment would in no way amend the Constitution of the United States nor be in direct conflict with the Constitution of the United States. All arguments against the line-item veto amend-

ment in the Constitution are null and void. This amendment is not about that issue at all. I could go out and argue against tax increases until I am blue in the face, but if the body is not debating a tax increase, then the discussion would be pointless. Similarly, the argument we have heard against the amending the Constitution are also groundless. This debate is about enhanced rescission power. Every year the President sends a list of recommended rescissions to the Congress, and every year the vast majority of those rescissions are totally ignored by the Congress. The McCain-Coats amendment would simply allow those rescissions to take effect.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. SMITH. Mr. President, I ask unanimous consent for 2 additional minutes.

Mr. MCCAIN. I yield 2 additional minutes to the Speaker.

The PRESIDING OFFICER. The Senator from New Hampshire has 2 additional minutes.

Mr. SMITH. I thank the Senator from Arizona.

It is no more complicated than that. Yet we were told that many of the pork items commonly mentioned were not line items at all; they are simply in committee reports that are nonbinding. And that is the truth. If that is the case, what is all the opposition about? The fact is, every year there are dozens of line items that could be rescinded.

This Senator will state right now that I will support this proposal for the line-item veto, and I might add I would support that if the distinguished chairman of the Appropriations Committee were President of the United States. I would trust him to have the line-item veto. I think it is important that the line-item veto be there for the President, and if it is, I think we can get a handle on this wasteful spending. It is a small start, but it is a small start and a big start at the same time. It might be one small step for the Senate, but it is a big step, a giant step, for the people of the United States of America.

I thank Senator MCCAIN for his leadership on this issue and appreciate the opportunity to be able to speak in favor of his amendment.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. I thank the Senator from New Hampshire for his years of effort on behalf of fiscal sanity and I am grateful for his remarks. I think they contribute enormously to this debate.

Mr. President, it is my understanding under the unanimous-consent agreement that Senator DECONCINI was allowed 10 minutes. I see he is here. I think it is appropriate, if he cares to, that he proceed at this time. I also, if I could, would ask the distinguished chairman of Appropriations Committee, I think it is appropriate that he, obviously, speak last in this debate. I am more than eager for him to do so.

I wonder how much time he would need at the end so we could possibly balance it out. Would 10 minutes be agreeable? Or would he care to discuss that?

Mr. BYRD. Mr. President, I think 10 minutes would be ample for me at the end.

Mr. MCCAIN. Yes, sir.

Mr. BYRD. I am prepared to go somewhat longer and I hope I will be able to do so, but 10 minutes at the end will be fine.

Mr. MCCAIN. I thank the distinguished chairman and I will try to balance the time so there is 10 minutes available at the end for summary. I thank the Chair.

Mr. DECONCINI. Does the Senator yield the floor?

Mr. MCCAIN. I yield.

The PRESIDING OFFICER. Senator DECONCINI is recognized.

Mr. DECONCINI. Mr. President, I thank my colleague, Senator MCCAIN, for yielding the floor.

Under the order I understand I do have 10 minutes.

The PRESIDING OFFICER. The Senator is recognized for 10 minutes.

Mr. DECONCINI. I am sorry to have to rise in opposition to my colleague's efforts, to impose a constitutional change through statutory procedures. As the distinguished President pro tempore has pointed out on a number of occasions—and certainly last evening was a remarkable statement of why we have the system we have and how important it is to us—it is really important to look at the practical aspects of the so-called line-item veto.

We all like to think how great that is. Just give it to a President and let him strike everything he wants. After all, 40-some Governors have it and look how wonderful their States are.

Look how wonderful their States are and you will see a lot of problems in their States. You will see legislators and you will see former Governors—as the former Governor of Oregon, Senator HATFIELD pointed out very clearly. Some 26 years ago, I believe, when he was Governor—what did they do? They padded their budgets, exactly what they do in the State of Arizona.

Democrats and Republicans will tell you just pad it and put extra stuff in there so we are just playing a game here.

The important thing is, in my judgment, that in representing your State you have to determine what you are going to do for your constituents. Let me just give an example so nobody is under any pretense that this is partisan, Democratic or Republican.

When Jimmy Carter was elected President in 1976 and took office in 1977, what did that nice man do? He was indeed a very nice man and good President, with the exception of this particular area of great concern to me. He immediately came up with a hit list of water projects, 18 of them. One of them happened to be the Central Arizona project, which is our lifeblood. Thanks to the distinguished chairman of the Interior Committee—and Appropriations Committee—and others around here, they have felt that the commitment made by Carl Hayden and Barry Goldwater should be maintained. And during the Carter administration and the Reagan administration, there were attempts to completely cut that project out and every year the Congress insisted on full funding of that project.

Had a line-item veto been in place, Jimmy Carter would have struck that project along with 17 others.

When President Reagan submitted his budget, in the early eighties, it called for a reduction and actually an elimination of the cost-of-living increase for Social Security. Guess who saved that for the Social Security recipients? The Congress of the United States; Democrats and Republicans said no. We put it back in.

If you had the true line-item veto that included entitlements, the President would have struck that. Then we would have had to override a veto.

That is really what this is in this process here today. This legislation sets up a veto fight, though it is a 20-day time period and then another 20-day time period to adopt it by a majority, then the President vetoes it and it comes back and Congress has to have a two-thirds vote to override.

So, look, for example, at the Barry Goldwater Science Center at Arizona State University. It was an appropriation that the Senate decided was important, and the House went along with, in honor of Barry Goldwater and to improve education in engineering for the people in my State, and for anybody else who comes to the State of Arizona. We invested taxpayers' dollars to get better engineers.

President Reagan, in the White House, and the OMB, said that it was a bad project. It was even listed as a "pork barrel" project. That building is up now, students are going there, they are learning about engineering and they are contributing to our society. With a line-item veto that project would have been wiped out.

There are a host of these different kinds of projects. In the veterans area, veterans job-training programs. Who has increased and maintained them every year? It has been the Congress. And who has been opposed to it? It has been the administrations, including Democratic administrations. That would certainly be a candidate for line-item veto.

Agent Orange. The Bush administration opposed the increase of specific moneys added to the medical care account for treatment of the victims exposed to agent orange from the Vietnam war. Congress put it in. The administration opposed it, but they did not have the line-item veto.

If the really are opposed to something, all they really have to do is veto the bill. We know that so well, in this body, with 24 of 25 veto messages from the President who occupies the White House now. Not one of his veto messages has been overridden.

The Office of National Drug Control Policy, is a program near and dear to me. For the last several years the Congress, over the objections of OMB, has funded moneys out of the Office of National Drug Control Policy for State and local governments; \$32 million last year. We decided that we should fund this for high-drug-intensity areas. There are five of them.

One of them happens to be the Southwest, which includes the States of Arizona, California, Texas, and New Mexico. And that little bit of money goes to local law enforcement to work with the Federal law enforcement. For reasons I do not know, the drug czar, OMB, and the White House, each say no. If there was a line-item veto that would have been struck and we would not have had that.

The drug czar special forfeiture fund is another one. It provided 75 new border patrol agents and \$10 million for residential drug treatment. This was something that had not been proposed by the administration and, in fact, they said in their testimony they could not afford it. It was not a bad idea. They could not afford it.

Had that \$10 million not been there, drug addicted women with children would not be living together in treatment centers today in Tucson, AZ. That is the reality of it. The counternarcotics R&D—

\$20 million the administration said we do not need to spend—would have been line-item vetoed. Additional IRS agents to go after drug dealers for a grant total of \$6 million.

United States-Mexican border facility, \$200 million this Congress has put in to improve the construction account and build improvements of border facilities. The administration opposed it. OMB testified in my subcommittee that we should not have these because they are not on a priority list. And we said no, they are on a priority list and we are going to do them. And they are under construction right today. Line-item veto would have wiped them out.

That new port of entry being build in Nogales, AZ, and Douglas, AZ, would not have been there if the line-item veto was in.

Native American construction programs: The Bush and Reagan administration have consistently provided zero funding for a number of important programs for Indian country. Congress consistently funded—and my dear friend, and I am deeply obligated to him for his willingness to consider these projects on a one-by-one basis as they come up in the Interior Appropriations Committee—has continuously funded hospital construction for Indians, when the administration has zeroed them out.

The BIA elementary school construction program again zeroed out by the administration and Congress funded it.

Impact aid—where the administration sought to eliminate impact aid part B. We happen to be a State that has 70 percent of our State owned by the Federal Government, including Indian lands, we get a little bit of assistance on that impact aid for those students. The administration says, no; Congress funds it.

These are the kind of things that would be cut by a line-item veto. Do not let anybody kid you.

Community service block grants, again something the administration has consistently not funded. We have felt it is important. We have funded it.

The food banks, the rural housing, services to migrant workers, poverty fighting programs, the list goes on and on all part of community services block grants.

The Turquoise Trail, is an outstanding project that was put in by my colleague from Arizona to bring transportation and economic development; it was on the hit list of the administration to be wiped out.

Let us talk about a program that is not Arizona for just a minute. How about Amtrak? We like Amtrak in Arizona but it only comes once in a while and it is not so crucial to us as it is to the Northeast. But there are a lot of Republican and Democratic Senators that Amtrak is absolutely fundamental to their economic development. New York is a good example. They have to have Amtrak and those Senators add money to the budget. And this Senator adds his vote for that money when the administration calls for zeroing it out. That would be a target of any line-item veto.

It goes on and on, Mr. President.

James Kilpatrick, a staunch conservative, states that a line-item veto would give "more power than Presidents ought to have."

President Taft, a Republican, said that remedies such as those suggested here are "A temptation to its sinister use by a President eager for continued political success."

How many people want the OMB Director to call them and say, "Senator, you know we have a base in your State that is threatening to be closed, and I'm sure looking at it as favorable as I can. By the way, Senator, I need your vote on the Clarence Thomas nomination, or the Robert Bork nomination, or the John Tower nomination." Do not let anybody be fooled, Democrat or Republican, you give that kind of power to the President and they are not babes in the woods. They are going to use it, and use it to get what they want. And they are going to take the heart out of our capabilities to represent our constituents.

The PRESIDING OFFICER. Who yields time? The Senator from Arizona.

Mr. McCAIN. I yield myself such time as I may consume.

Mr. President, I would like to begin by thanking the many groups who made this effort possible. These groups include Citizens Against Government Waste and its 450,000 members, the National Taxpayers Union and its 200,000 members, the United States Business and Industrial Council and its 1,500 members, Citizens for a Second Economy and its 250,000 members, and the Coalition for Fiscal Restraint, known as CoFIRE, and 83 of its member businesses and organization. Their hard work and dedication has made this effort possible and has offered encouragement to me and Senator COATS, and letters by the hundreds of thousands have poured into this body in support of fiscal sanity.

I also thank the President pro tempore for his outstanding scholarship outlining our Anglo-American political heritage. I comment his statement to all of our Members to read as a very profound and scholarly document and one of the continuing contributions that he makes to the knowledge and information for not only Members of this body but all Americans.

But we are not here to debate Anglo-American history. What we are talking about, Mr. President, is what has happened to our Federal budget since 1960.

Let me say it again. In 1960, the Federal debt held by the public was \$236.8 billion. In 1970, it was \$283.2 billion. In 1980, it was \$709.3 billion. In 1990, it was \$2.4 trillion, and it is expected to surpass \$4 trillion within the next year.

Mr. President, the system is broken. It has to be fixed. What are we doing to our children and our children's children by amassing a \$4 trillion debt?

I think it is interesting to look at those numbers and see what happened around 1974 because what this is all about is not a change in the Constitution. It is clearly a revision of the 1974 Budget Control and Impoundment Act which up to that point the President of the United States had exactly the authority that we are trying to give him with this bill.

Last night the President pro tempore made a few interesting comments, many interesting comments about those who support the line-item veto. He stated, and I quote, "The average citizen who is concerned about spiraling budget deficits cannot be expected to understand the intricacies of appropriations bills." He also stated, "Or they are just engaging in demagoguery by using the item veto to avoid tough political decisions and knowingly playing upon the

ignorance of honest souls who are uninformed concerning the complexities of the appropriations and budget process."

Mr. President, I wonder if that applies to three of the Democratic Presidential candidates who have all announced their support of the line-item veto.

Mr. BYRD. Mr. President, will the Senator yield?

Mr. McCAIN. Yes.

Mr. BYRD. It does.

Mr. McCAIN. Pardon me?

Mr. BYRD. It does. I so stated yesterday, including the present President in the White House and his predecessor.

Mr. McCAIN. I thank the Senator for filling me in on that, particularly since we have letters that I know the distinguished chairman has heard me quote. Senator Paul Tsongas, a Democratic candidate for President supports the line-item veto. He believes that it is an effective way of reducing waste in Government. I remind my colleagues that Senator Tsongas was a Member of this body for some time.

Governor Clinton: "I strongly support the line-item veto because I think it is one of the most powerful weapons we could use in our fight against out of control deficit spending."

And we also know that Governor Jerry Brown, a former Governor of the State of California, strongly supports the line-item veto.

I do not believe that they are engaging in demagoguery and I do not believe they are ignorant or uninformed. I think they are informed, and I think as Presidents of the United States, the job that they are seeking, they would feel great comfort in having the ability to bring the out of control spending under control.

Mr. President, the average citizen, in my view, is not ignorant nor uninformed. The average citizen knows when his or her pocket has been picked. The American public supports line-item veto because they are well informed about the intricacies of runaway spending, out of control deficits, and ever-increasing tax burdens. The American public knows the score.

Mr. President, they are being informed on a regular basis with publications such as one recently published called the "Congressional Pig Book Summary." I am embarrassed by that document. I think all of us should be because many of the items that are listed there are clearly not necessary.

As my friend from Indiana mentioned, we are now the butt of jokes on late night talk shows. I resent that, too. I think the body deserves better, and we can deserve better, and will receive better if we enact some kind of fiscal sanity. The American public may not be well versed in the intricacies of Anglo-American history but they know full well the Earl of Kent's court would never have proposed a study of cow flatulence.

I again want to thank the President pro tempore for his eloquent discourse on our Anglo-American history, but as I mentioned, we are not here to debate ancient Anglo-American history. Senator COATS and I are here to solve a problem that affects every American today. Our effort is not, as the chairman of the Appropriations Committee characterized, quack medicine or snake oil. I believe it is an effort to reform a system that is broken.

I will again bring to the attention of the Senate \$3.7 trillion of public debt as irrefutable evidence of that. The constitutional criticisms of the amendment are unfounded. As I mentioned before, we are not amending the Constitution, we are amending the 1974 Budget Control and Impoundment Act. I would have liked for us to have simply an up-or-down vote on the issue rather than it be subject to the Budget Act, but obviously that is within the rules of the Senate.

Mr. President, we are not capable of following a simple law which says, and this is our law: "No funds may be appropriated for any fiscal year or for the use of any armed force or obligated or expended for procurement R&D," et cetera. "unless funds, therefore, have been specifically authorized by law."

Mr. President, last year we added \$6.3 billion of unauthorized spending to the Defense appropriations bill which for the first time caused me to vote against the Defense appropriations bill. Mr. President, the reason why I did so is because we spent money like \$10 million on a small college in Pennsylvania to study the effects of stress on the military which was over one-third of that college's budget; and at the same time the very, very same time we are telling tens of thousands of dedicated young men and women who joined the military for a career on a voluntary basis that we cannot afford to keep them, so they have to leave.

Mr. President, \$6.3 billion would pay for the personnel and operating costs of 195,000 enlisted personnel in the Air Force for 1 year. Or it would pay for the operating costs of up to 16 carrier battle groups for 1 year. Or it would pay for the operating costs of eight to nine fully armored Army divisions. Or it would pay for the operating costs of 14 to 15 light infantry divisions for 1 year. Or it would pay for the total operation of the soon to be closed Williams Air Force Base in Arizona for 50 years.

I resent again what we are doing to these young people, many of them minorities in our society, who sought a military career as a way to better themselves in our society and we are telling them we cannot afford to keep them.

Mr. President, this is a chance for Congress to change the score. This is a chance for Congress to succeed where it has failed over and over again. And here is a chance for substantive reform, reform that 600 years in the future may cite as a major improvement in our republican system of government.

Let me remind you that in modern economic history, every time Government spending exceeds roughly 19 percent of GNP, we have found ourselves in recession. Now Government spending consumes 24 to 25 percent of our gross national product. We have to give Americans a fighting chance and we have to eliminate the wasteful and unnecessary spending.

Let me quote, Mr. President, and I will not take too much longer, from the preamble to the U.S. Constitution. It states:

"We the People of the United States, in Order to form a more perfect Union, establish justice, insure domestic tranquility, provide for the common defence, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America."

To secure the blessings of liberty to ourselves and our posterity. The Congress over the last 30 years has failed in its constitutional obligation to secure the blessings of liberty for posterity.

This debate is not about ancient history. This debate is about the future of our children. I ask my colleagues to consider the future of their children and the future of our country and vote to waive this point of order so that we will not lay this unconscionable burden which is now \$13,000 for every man, woman, and child in America and enact the line-item veto.

Finally, Mr. President, let me say I do not expect to win this vote. We are able to count. We may do better than some people think because the heat is on. But I do not expect to win this vote. I believe that there is a great opportunity here, and I have some optimism that the President of the United States, following this failure again, would go ahead and exercise the line-item veto on some item and then take it to the courts and to the American people.

There is no doubt every poll shows that well over 70 percent of the American people support the line-item veto. Every one of them that I know is fed up with the wasteful and inefficient spending practices of our present budget process.

I hope that the President will veto it. I believe he will, and then we will allow the courts and the people of the United States a decision in this process. I have some confidence that it may come out in the proper direction. If it does not, I do not see how we are worse off than we are today.

Mr. President, I want to thank again the President pro tempore of the Senate for all his courtesy and his eloquent depiction of his view of this debate, and I want to thank all my colleagues for their support.

Mr. President, I ask unanimous consent to add Senator GRASSLEY as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MCCAIN. I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. MCCAIN. I yield 5 minutes to the Senator from Colorado.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. MCCAIN. Mr. President, may I ask the time remaining on both sides?

The PRESIDING OFFICER. The Senator from Arizona controls 24 minutes and 40 seconds, the Senator from West Virginia controls 41 minutes and 37 seconds.

Mr. MCCAIN. I yield 7 minutes to the Senator from Colorado.

The PRESIDING OFFICER. The Senator from Colorado is recognized for 7 minutes.

Mr. BROWN. I thank the Chair.

I rise in strong support of the line-item veto. I want to express my gratitude to the distinguished Senator from Arizona for his leadership on this issue as well as his great efforts to bring this issue to fruition.

I also want to acknowledge the heavy burden and the strong work of the distinguished Senator from West Virginia. The distinguished Senator from West Virginia is in a tough spot. He is faced every day with requests from Members of this body for appropria-

tions. He is faced with the tough job of trying to sort those out and set priorities.

I believe that this measure makes sense. I believe the line-item veto is an important change that must take place. I think one may well reasonably ask, why change the system? The distinguished Senator from West Virginia has made an eloquent plea against change in this regard.

I must say, Mr. President, I believe the facts are quite clear that this Nation has to change. We can no longer afford to go on as we have. Whether Democrat or Republican or liberal or conservative, every American has to be concerned about the fact that the biggest part of our budget today is not defense, not welfare, not assistance but interest on the national debt.

Americans are required to work longer and harder simply to pay interest on past debts than at any time in our history. That is a tragedy. It is a tragedy for Americans, not only working men and women in this country, but a tragedy for our children and grandchildren who inherit an enormous debt that overhangs our country.

We need change. This Nation, if it is to survive, needs a change. The fact is we consume most savings that cap the formation of public deficits instead of being willing and able to reinvest it in our future and the future of our children. There is no question that we have to change the way we budget because it will consume our future if we do not.

Much has been said in this debate about the heritage we have and of which we are all so proud. But, Mr. President, I believe if there is one message, if there is one thought, if there is one common thread that underlies our proud heritage of government and our Anglo-Saxon heritage from Great Britain, the British Parliament, that has followed us down through this Constitution, it is this: Americans have been suspicious of concentrations of power. We did not like it when King George ruled us. The one common thread we set up when we established this Constitution was to divide power, to make sure someone could not abuse power. Power corrupts. Absolute power corrupts absolutely. What we have seen is an overconcentration of power in the appropriations process, and this begins to break it up. It is in the very spirit of the American tradition.

Third, Mr. President, I think it is important to examine what happens in our society with insider trading. Insider trading in the stock market puts people in jail. But what does it do with regard to appropriations? The simple fact is that many of the items for which this country appropriates money have not seen the light of day, have not been authorized, have had no hearings, are not subject to competitive bid. What we are suggesting with the line-item veto is that we end the practice of insider trading in Congress. This allows items that have not had hearings, have not been open to the light of day to be itemized and brought out and provide a separate vote.

That light of day is what we are talking about. We are talking about giving people the opportunity, the chance to take a careful look at what is passed. We are all aware of the process. We are all aware that things get rolled into large bills. It becomes very difficult to get a separate vote on them or to take them out.

This line-item veto means one thing—not an advantage to Democrats or Republicans because it is nonpartisan both in the support it has and the impact it will have. It means better and more efficient use of the taxpayers' dollars. It means an end to insider trading. It means an opportunity to bring to the light of day how we spend our money, and ultimately it means a break for the hard-working men and women of this country who will have an opportunity to at least have a fair shake when appropriations of their money are made—at least have an opportunity to have a hearing, at least have an opportunity to make a comment.

We ought to end the insider trading. We ought to follow our concern about having limited Government. We ought to change the devastating path that we are on with regard to deficit spending.

Mr. President, I intend to vote for the line-item veto and continue to work for it. I believe before this decade is out, we will see a constitutional amendment for a line-item veto pass, not only because it is the right thing to do but because it is essential if America is to have the future we all want for our children and grandchildren.

I yield back the remainder of my time.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. COATS. Mr. President, I wonder if I can inquire how much time remains on each side?

The PRESIDING OFFICER. The Senator controls 18 minutes and 50 seconds; 41 minutes and 37 seconds on the other side.

Mr. SPECTER. I would request 5 minutes and may not use all of it.

Mr. COATS. The Senator is speaking on behalf of the amendment?

Mr. SPECTER. Absolutely.

Mr. COATS. That is what I assumed. I have a number of requests, and Senator MCCAIN controls the time. I do not see him on the floor. I wonder if the Senator could take 3 minutes and then perhaps I can track Senator MCCAIN down and see what other requests he has.

Mr. SPECTER. I would be glad to start there.

Mr. COATS. Mr. President, I yield 3 minutes to the Senator from Pennsylvania.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized for 3 minutes.

Mr. SPECTER. Mr. President, I support the line-item veto because I strongly believe that the deficits which are being incurred are a national scandal. We are living on a credit card and are imposing these burdens on future generations, and, simply stated, it is categorically wrong.

I happily supported and voted twice on this floor for constitutional amendments for a balanced budget, have supported a line-item veto in previous votes, and have sponsored and supported constitutional amendments for a line-item veto.

These are difficult matters to implement but I believe it is urgent that we do so. In my legal opinion, Mr. President, there is a constitutional basis for the President to exercise the line-item veto

without a constitutional amendment. I think he has the authority to do that at the present time.

I have been on the Appropriations Committee for my entire tenure in the Senate. I believe that it is appropriate for the President to exercise a line-item veto, and then to bring it back to the Congress. I would favor an approach which would allow the Congress to override the line-item veto by the simple majority. But there is no reason ultimately why expenditure items in these complicated budgets should not be submitted to the light of day.

I know that structure is not contained in this bill, but we are exploring this subject. I have no illusions as to the passage of this amendment at the present time, but this is an ongoing effort to bring some responsibility into our budgeting process.

I recall very well President Reagan's speech where he had a continuing resolution on the agenda which had been presented to him; it was in the 1988 State of the Union speech. He had the bill precariously positioned on the edge of the podium, I think for dramatic effect, wondering whether it was going to fall off.

The next year the Appropriations Committee did appropriate separately on 13 bills, which is the minimum that the Congress can do. But beyond that, it is entirely fair and appropriate that the Chief Executive of the United States, the President, shall have the authority to strike a given item, just as the Governors in more than 40 States have that authority, and then in the light of day let it come back to the Congress, let it come back to the Senate, let the Senators who are the proponents thereof stand on this floor and justify this expenditure in the light of a national deficit which approaches \$4 trillion.

I prize the independence of the Senate and I prize the separation of powers. I was unwilling to give a commission the authority to decide which military bases were to be closed.

I opposed fast track, and I am a zealous guardian of the constitutional prerogatives of the Senators in terms of independence of the Senate. But when it comes to the expenditures which have been authorized and appropriated by the Congress, we have gone too far. It is more than enough is enough. If they are justified, we can bring them back to the floor and authorize the expenditures. But I very strongly support the concept of the line-item veto and urge my colleagues to express the same sentiment on the forthcoming vote.

I thank my colleague from Indiana for yielding the floor.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, I ask the Chair to inform me when I have only 15 minutes left.

The PRESIDING OFFICER. The Chair will so inform the Senator.

Mr. BYRD. Mr. President, the Policraticus of John of Salisbury, completed in 1159, we are told, "is the earliest elaborate mediaeval treatise on politics." In it, we find a reference to the House of Caesar and an account of the means by which each in this line of Roman rulers came to his end. Julius, as we know, was done to death at the hands of Brutus, Cassius, and others as they gathered on the Ides of March where the Senate was meeting. When Caesar

saw those about him with their daggers drawn, he veiled his head with his toga and drew down its folds over his eyes that he might fall the more honorably.

Nero, the sixth in line from Julius, after he had heard that the Senate had condemned him to death, begged that someone would give him courage to die by dying with him as an example. When he perceived the horsemen drawing near, he upbraided his own cowardice by saying, "I die shamefully." So saying, he drove the steel into his own throat and thus, says John of Salisbury, came to an end the whole House of the Caesars.

Here, now, we see the proposal before us, the legislative branch being offered the dagger by which, with its own hands, it may drive the steel into its own throat and thus die shamefully.

I say to Senators, beware of the hemlock. Let us pause and reflect for awhile lest the "People's Branch" suffer a self-inflicted wound that would go to the heart of the constitutional system of checks and balances. I am talking about the power over the purse, a power vested by the Constitution in the legislative branch.

Let the Constitution speak:

"Art. I, Sec. 1: All legislative powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

"Article I, Sec. 8: The Congress shall have Power to lay and collect Taxes * * * to pay the Debts and provide for the common Defense and general Welfare of the United States. * * *

"Article I, Sec. 9: No Money shall be drawn from the Treasury, but in consequence of Appropriations made by Law."

This is the power over the purse. And it is a power not vested in the Executive; it is a power vested by the Constitution in the legislative branch, and only in the legislative branch. Only in the legislative branch.

Read the Constitution, those who have not read it lately. Read the Constitution and dispute with the Framers of the Constitution as to where the power of the purse was repositied, is repositied, and will be repositied as long as that Constitution endures.

We Senators—100 in number, like the original Roman Senate, which had 100 Senators—are members of the legislative branch. And each of us swore a solemn oath upon entering this body to support and defend the Constitution of the United States against all enemies, foreign and domestic, "so help me God"—the Constitution of the United States which, under article I, invests the legislative branch with the power over the purse.

That oath, which we all took—and which some of us have taken many times, each time upon reentering this office—is set forth in rule III of the "Standing Rules of the Senate." Perhaps we ought to read that oath again from time to time.

Now, if all legislative power is vested in the legislative branch—which it is—then only the legislative branch can make the laws.

If no money shall be drawn from the Treasury but in consequence of appropriations made by law, and only the legislative branch can make the law, then it surely follows, as night follows day, that only the legislative branch can appropriate moneys.

The power to raise and appropriate money is the "power over the purse." To raise money and to appropriate money can only be done

by law, and since only the Congress, under the Constitution, can make the law, then only Congress has the power over the purse. That power flows specifically and directly from the Constitution to the legislative branch.

If each of us has sworn an oath before God and man to "support and defend" the Constitution of the United States, then how can any one of us seriously propose to disregard and undermine that Constitution by attempting to shift that power over the purse away from the legislative branch to the other end of Pennsylvania Avenue, where the Chief Executive has his office?

In the first place, I submit that it is not within our power to do it, under the Constitution as now written. The people have that power, because only the people can amend the Constitution.

In the second place, we, as members of the legislative branch, should oppose any proposal—any proposal—to shift the power over the purse from the legislative to the executive. Why? Because it would radically unbalance the delicate system of checks and balances that are the very heart—the very heart—of our republican form of Government.

How important is the power over the purse in our system of checks and balances? James Madison—not Robert C. Byrd; James Madison—is universally regarded as the Father of the Constitution. Let him be heard on the question; let James Madison be heard. Friends, Senators, countrymen, lend James Madison your ears:

"This power over the purse may, in fact, be the most compleat and effectual weapon with which any Constitution can arm the immediate representatives of the people for obtaining a redress of every grievance and for carrying into effect every just and salutary measure." (Federalist number 58.)

Madison was reflecting the wisdom of the Framers of the Constitution, who vested the power over the purse in the legislative branch, where it has reposed for over 200 years. And now there are those among us who would appear to say: "We are wiser than the Framers of the Constitution. The power over the purse should be shifted from the legislative branch to the Executive by giving the President a line-item veto."

To this I can only say, "Forgive them, Lord, they know not what they do."

The 55 delegates who composed the Federal Convention had themselves been British subjects prior to the Revolution. Alexander Hamilton and Robert Morris were born English subjects; the father of Franklin was an English immigrant; and James Wilson—one of the most farsighted men in the whole Convention—was born near St. Andrew's, Scotland. They were very well versed in the development of the unwritten English Constitution, and were thoroughly conversant with the story of sacrifice by Englishmen long before their own time in the struggle to establish representative government.

The Framers knew that the power over the purse had been securely vested in the British Parliament only after 500 years of contest and strife, and that the price had been paid in blood that had flowed, often from the point of the sword.

They knew—if we do not know—that “the cornerstone of English liberty”—the Magna Carta—had been signed by a reluctant King John at Runnymede on June 15, 1215. They knew that among the 63 clauses of that charter was one that prohibited the levying of taxes without the consent of the prelates and greater barons.

The Framers of the Constitution knew that King Edward I had been forced to accept the “Confirmation of the Charters” in November 1297, the sixth clause of which prohibited the levying of taxes “but by the common assent of the realm,” making it henceforth necessary that representatives of the middle class—the middle class, which we hear so much about these days—be summoned to all Parliaments.

This was a fact of great importance in that the control of the purse was to provide a power which Parliament would frequently use to force Kings to grant concessions. Edward II reigned from 1307 to 1327, and on two occasions during his reign, the representatives in Commons seized the chance to demand a redress of grievances before they granted taxes on personal property.

I wish that some of us who live in Fairfax County could do the same with those who continue to raise the taxes on our property, and that we could demand a redress of grievances before the county supervisors grant an increase in taxes on real property.

Edward III ruled from 1327 to 1377, 50 years. In his day it was becoming customary to place conditions on money grants, so that to obtain funds from Parliament, the King had to agree to the attached conditions. Parliament often insisted that the money granted would be spent only for specific purposes. So here, over 400 years before the Constitutional Convention met in Philadelphia, was the beginning of the modern system of appropriations.

Our constitutional Framers were not unaware of these lessons of history. And I wish that we politicians, like our constitutional Framers, were more aware of the lessons of history.

They knew that by the time of Henry IV, who ruled from 1399 to 1413, the custom had developed that the raising of revenues should originate in the House of Commons. Henry had failed in 1407 when he tried to proceed with a money grant first through the House of Lords. The Commons refused to accept this derogation of their liberties.

Madison and the other Framers knew of the Petition of Rights, to which Charles I had been forced to assent in 1628 before Parliament would vote the funds that he needed. Charles had attempted to raise money through a forced loan in 1627, which, in effect, was taxation without parliamentary sanction. The Petition of Rights asked, among other things, that no man should be compelled to make or yield any gift, loan, benevolence, or tax without common consent by act of Parliament.

Charles consented but he had no intention of carrying out his part of the agreement. After the funds had been appropriated, he continued his autocratic rule. Parliament passed a bill which took control of the military forces out of the King's hands and gave Parliament the power to appoint all militia commanders. When Charles refused to sign the bill, Parliament made it into an ordinance. Charles issued a royal proclamation ordering the people to disobey the ordinance of Parliament. On the same day, May 27,

1642, both houses of Parliament declared that their ordinance must be obeyed. On August 22, 1642, Charles raised the royal standard on the summer green near Nottingham. The civil war had begun. But Parliament controlled the purse strings and created the New Model Army, the first national standing army which, under the leadership of Fairfax and Cromwell, defeated Charles' main army in June 1645.

On January 6, 1649, the House of Commons passed, on their own authority, an "act" creating a High Court of Justice for the trying of Charles Stuart, King of England, for treason and other crimes. The court found the King guilty; declared him a tyrant, traitor, and public enemy of the good people of the nation; and ordered that he be "put to death by the severing of his head from his body." On January 30, 1649, Charles I was executed in front of his palace at Whitehall.

Following the period of the Commonwealth and the Protectorate, came the restoration with Charles II ruling from 1660 to 1685. Then followed the arbitrary rule of James II, who, in 1688, was forced to flee in December to France where he found refuge at the court of Louis XIV and never saw England again. Whig and Tory leaders invited William of Orange and Mary, the daughter of James II, to become joint rulers of England. The throne was declared vacant, and in 1689 William III and Mary were declared joint sovereigns, but only after they had agreed to accept a Declaration of Rights prepared by Parliament. This document was followed by a Bill of Rights adopted by Parliament in December 1689, which limited the powers of the King of England in certain ways, among which was no levying of taxes except by act of Parliament. The crown rested on Parliamentary title and the supremacy of Parliament was at last assured.

The men who sat at the Constitutional Convention in 1787 knew full well that from the moment when the sole right of the Parliament to tax the nation was established by the English Bill of Rights, and when the practice was settled of voting only annual appropriations to the crown, Parliament became the chief power in the kingdom. It was impossible permanently for the king to suspend the sessions of Parliament, or to offer serious opposition to its will, when either course must end in leaving the government without money, breaking up the military and naval forces, and rendering the public service impossible.

The power over the purse was the basic guarantee undergirding the rights and liberties of Englishmen, and the long and painful history of the unwritten Constitution of the Motherland was a guiding light to the Philadelphia convention members as they prepared a written Constitution for the American republic.

With the experience of seven hundred years as a lamp unto our feet, let us not cavalierly cast aside the lessons of the past by lending voice or vote to a massive shift of power from the legislative to the executive, which would be the pernicious result of a line item veto. Byron said it best: "A thousand years scarce serve to form a state; an hour may lay it in the dust."

Mr. President, to concede to the Executive the authority to excise from appropriation bills line items, either by specific vetoes or by specific rescissions, would be an event of far-reaching con-

sequences. The system of checks and balances established by the Constitution would be seriously altered and impaired. The Executive would be greatly strengthened while the legislative branch would be correspondingly weakened.

The influence of the President in the governmental system has already exceeded the fondest hopes of men like Hamilton, who desired a powerful Executive. Two factors have especially contributed to this phenomenon, both of which were unforeseen by the Constitution's framers: (1) the emergence and growth of political parties and party patronage, with the President as titular head of his own party; and (2) the expansion of the means of communication through the advent of television and radio and the ready access to these media by the President, enabling him, from his "bully pulpit," to go over the heads of the Congress and appeal directly to the people. A power to veto or rescind items, provisions, and sections of appropriation bills would enable a President to control Congress.

How much time remains, Mr. President?

The PRESIDING OFFICER. The Senator has 15 minutes and 18 seconds remaining.

Mr. BYRD. I thank the Chair.

Benjamin Franklin at the Convention signaled the danger of an absolute veto when he said—now this is Benjamin Franklin from Pennsylvania—"No good law whatever could be passed without a private bargain with him." Franklin was referring to the governor of Pennsylvania, but the observation on the absolute veto would apply with equal force to a line-item veto power vesting in the President.

Individual members of the Senate and House would be forced to bargain with the President in order to obtain local appropriations. Log-rolling in Congress would be shifted to the oval office, and "pork" would be the main course on the White House menu during all seasons, with the American people paying the cost in more ways than one. Two of the constitutionally conferred powers which help to make the Senate the unique body that it is—the treaty power and the confirmation power—could be greatly compromised, thus vitiating the checks and balances ensured by these powers. For a Senator to exercise his own conscience and reflect the views of his own constituents on a given treaty or nomination could risk the loss of appropriations for roads, education, public housing, flood prevention, or health research facilities in his own state. To argue that the president would not use such a "big stick" on Members of Congress, is to ignore political reality. The President would be assured of dominance over a subservient Congress, a circumstance which, to the Founding Fathers, who, while possessing a profound conviction that the powers conferred on Congress were powers to be most carefully circumscribed, would have been anathema.

Presidents Grant, Reagan, Bush, and others have advocated a line-item veto, but President Taft expressed an opposing view: "The veto power does not include the right to veto a part of a bill. * * * I think the power to veto items in an appropriate bill might give too much power to the President over congressmen."

Those were the words of President Taft.

Those who advocate a line-item veto cite the fact that 43 of the States have it. That is perhaps one of the weakest arguments of

all in support of this amendment. Such an analogy is not compelling. It is interesting but it is not relevant. It is a valid argument only if we are willing for Congress to have its influence reduced to the status of a State legislature and give up its primary responsibility for spending policies.

The principle of separation of powers is more sharply drawn at the national level than at the State level. State constitutions and State governments deal with local problems or, at the most, problems common to the immediate region. Here, we are dealing with the Federal Constitution, a Constitution which binds together 50 States and the District of Columbia in a common bond and as a Republic based on a system of separation of powers distributed among three equal branches acting under checks and balances that operate, each against and with the other. The Government of the Nation must decide and implement policy, not for just a single State but, rather, for 50 States and territories. Congress, unlike a State legislature, must provide for the common defense and general welfare of the United States; wrestle with international policies affecting trade, commerce, immigration, alliances, treaties, and finance; raise and support armies and maintain a navy; establish post offices and national highways; and formulate fiscal and monetary policy that will keep the economy strong and interest rates stable. Only the Federal Government has the power to affect our relationship with what was the Soviet Union or to send men and planes to Saudi Arabia to protect that country against an invasion by Saddam Hussein's army. Only the Federal Government has the capacity to defend the Nation against hostile navies. Only the Federal legislature has the power to regulate commerce with foreign nations, establish a National Interstate Highway System, and provide for the general welfare of the United States.

The Governors, in their convention, have asked that the President be given the line-item veto, the same power that 43 Governors have. What utter folly. What utter folly. You would think they would have read the Constitution at least once in their lives and that they would have taken the time to study some little bit of history and, if not that, at least that they simply use common sense. Yet, they are the first to stand in line for their checks from the Federal Government which they use to balance their State budgets.

Moreover, most State legislatures meet for only brief periods during a year or every 2 years and lack the budget, oversight, and policymaking tools that are more within the realm of the executive. Under such circumstances, the responsibility is more upon the executive to do the budget paring—which burden, incidentally, is made easier, as I have indicated, by the flow of Federal moneys into the State, siphoned through the congressional pipeline that runs from Washington.

Mr. President, a study of the discussions involving the veto power which took place at the Constitutional Convention will find no mention whatsoever of a line-item veto, nor was there any reference to such in any of the Federalist papers written by Madison, Hamilton, and Jay, explaining the Constitution and advocating its ratification by the States. The convention debates on the veto revolved mostly around the issues of whether it should be an absolute or qualified negative; whether the votes necessary to override

should be two-thirds or three-fourths of both Houses; and whether the negative should be vested in the executive alone or jointly, as, for example, in the executive and the judiciary. As Hamilton later explains in the *Federalist* No. 73:

"The primary inducement to conferring the power in question upon the executive is to enable him to defend himself; the secondary one is to increase the chances in favor of the community, against the passing of bad laws, through haste, inadvertence, or design."

Mr. President, how much time do I have remaining.

The PRESIDING OFFICER (Mr. PRYOR). Seven and a half minutes remain.

Mr. BYRD. Mr. President, the Framers, in their wisdom, decided against giving to the Executive an absolute veto. Yet, a line-item veto would essentially amount to an absolute veto. Only in rare instances has Congress overridden the President's veto, even when he has chosen to veto a bill of general interest to the country at large. To expect two-thirds of both Houses to override a veto of appropriation items of interest only to a few States is quite unrealistic. Additionally, on many occasions, provisions are included in legislation which, if they stood alone, would be vetoed, but, because they are part of a bill containing other provisions that the President wants, he declines to exercise the veto power. Yet, the bill, stripped of the provisions objectionable to the President, would no longer be what the Congress intended or envisioned when it voted to give its approval. The altered bill, which then the President would sign, would become a law different from the legislation which Congress passed. To thus place in one man's hands the power to revise and amend a bill or resolution by striking language therefrom, would be to make the President a super legislator. Clothing a President with such legislative power would be counter to the letter and the spirit of article I, section 1, of the Constitution, which vests all legislative powers in the Congress. The Framers clearly intended that the President's choice be limited either to a veto of the whole bill or to letting it become law.

Now I turn briefly to the politics of the so-called line-item veto. I say "so-called" because there is much disagreement as to what is meant by the word "item" when it is used in this context. The proposal for a line-item veto is not something new; it has been around for a long time—long before Mr. Bush, long before Mr. Reagan, who was perhaps its most passionate devotee among the Presidents, came to town. The item veto came into being during the Civil War, first in the provisional constitution of the Confederate States of America. It was then adopted by Georgia in 1865 and by Texas in 1866. Following the Civil War, almost every new State admitted to the Union adopted the item veto, and most of the older ones did likewise. As the States adopted the line-item veto, the agitation for engrafting such a veto onto the Federal Constitution has increased, and it has thus been a matter of debate, beginning with the advocacy by President Grant, down to the present time.

Many who support the line-item veto are well-intentioned people who see it as an elixir for the disease of bloated Federal deficits. Others who have not taken the time for serious thought and study of the matter simply think it is a good idea. Still others, who ought

to know better, advance it as a panacea for deficit paring when, in reality, they are playing the demagog by attempting to shift to the President a responsibility which is theirs, as members of the legislative branch, but which they lack both the will and the courage to carry out. The proposal for a line-item veto at the national level has its appeal. And it is understandable that it would rank high in the polls. But the average American, who must concern himself with raising a family, with holding a job, or with seeking a job and standing in the unemployment line, or advancing himself in his job, and putting the daily bread on the table, has neither the time nor the inclination perhaps to examine and sift through the crosscurrents of history and arcane political theory in order to fully familiarize himself with the pros and cons of the line-item veto debate.

I do not think we should expect him to do all of that, when I am sure most Senators themselves have never taken the time to do it. It thus becomes our responsibility, as Members of the Senate and House, to do what we can to inform the Nation of the impracticality and the unwisdom of such a proposal as a line-item veto. Madison's words, as contained in the Federalist No. 63, are most worthy of repeating here.

Listen to Madison. Listen to his words as they roll across the centuries down to us:

"There are particular moments in public affairs when the people, stimulated by some irregular passion * * * or misled by the artful misrepresentations of interested men, may call for measures which they themselves will afterwards be the most ready to lament and condemn * * * in these critical moments, how salutary will be the interference of some temperate and respectable body of citizens, in order to * * * suspend the blow meditated by the people against themselves, until reason, justice and truth can regain their authority over the public mind? What bitter anguish would not the people of Athens have often escaped if their government had contained so provident a safeguard against the tyranny of their own passions? Popular liberty might then have escaped the indelible reproach of decreeing to the same citizens, the hemlock on one day, and statues on the next."

Mr. President, Madison was illustrating the utility of a Senate in the establishment of a due sense of national character. And, in so doing, he was providing the measure of our duty as Senators to the States and to the people.

Let us, then, do our duty, forgetting not that the power over the purse, in Madison's words, is "the most compleat and effectual weapon with which any constitution can arm the immediate representatives of the people, for obtaining a redress of every grievance, and for carrying into effect every just and salutary measure."

Mr. MCCAIN. Mr. President, may I ask the question how much time remains on both sides?

The PRESIDING OFFICER. The Senator from Arizona has 14 minutes and 35 seconds.

Mr. MCCAIN. On the other side?

The PRESIDING OFFICER. Seven seconds remain on the other side.

Mr. MCCAIN. I yield 3 minutes to the Senator from Idaho [Mr. CRAIG].

Mr. BYRD. Mr. President, would it be agreeable to ask consent for some additional time on both sides?

Mr. MCCAIN. I will be glad to.

Mr. BYRD. I would like 10 minutes in closing. I am willing to have the other side have an additional 10 minutes.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. I make that request.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MCCAIN. I yield 5 minutes to the Senator from Idaho.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. CRAIG. Mr. President, I thank my colleague from Arizona for yielding on an issue of utmost importance to this body.

For a good number of years the Nation as a whole has spoken out to the fiscal irresponsibility, or I should say the lack of fiscal discipline that the Congress of the United States has demonstrated for a good number of years. They have in their wisdom asked for a variety of choices to legislative approaches or to constitutional change that might reinstate a discipline long forgotten.

A line-item veto in the form of a constitutional amendment was proposed. It has been proposed and remains very popular in the minds of many citizens. But today my colleagues from Arizona and Indiana have introduced a legislative approach, one that I think is worthy of the consideration of this body in absence of our willingness or our ability to produce a constitutional amendment.

Most assuredly, it will not be as long lasting, at least in first blush. But it gives the Congress of the United States an opportunity to work much more closely with the executive branch in dealing with budgetary problems.

For a long time I have laughed, sometimes quietly—most times quietly—over the fact that legislators find it very easy to blame an Executive for the woes of our budget; for the deficit spending that has gone on progressively here for 25 to 30 years, when in fact article I, section 1 as my colleague from West Virginia just mentioned, really gives no budgetary responsibility to the executive. We only find it, since the budget acts of the midseventies, opportunistic to argue that in fact budget deficits are the responsibility or the lack of foresight on the part of the executive. It is simply not true by law or by Constitution.

But I do believe it is now time to allow those kinds of legislative efforts that will not stand alone to be judged openly, instead of tucked neatly away for the service of one's individual interest and, oftentimes, one's individual State.

My State has been a recipient of that kind legislation over the years and my citizens on occasion have been pleased with it but I think when given recognition of the fact that the historic clock of Government is now ticking more loudly than ever before, as it relates to a time when interest on debt in this country will be the second-largest item in the budget that we will have to deal with, that the citizens of this country will wipe clean from Government those who have refused to stand for fiscal responsibility and will replace them with citizens who believe in that kind of responsibility and will vote accordingly with what they have pledged on the campaign trail.

A time for an approach to change is at hand and I believe the approach today that is offered in the legislative line-item veto is but a small, though important, measure in providing greater checks and balances to the lack of fiscal discipline that this body and the other one have so continually demonstrated over the years. Clearly, an up-or-down vote—let the citizens judge because I do believe it is workable. I think we can decide individually and collectively, issue by issue, if necessary, how the budget ought to be treated. My guess is that within a reasonably short time, the budget process will learn to reconfigure itself and craft in a way legislative appropriations that will be more palatable and more acceptable to the general public toward a more balanced budget, toward more fiscal responsibility. Those are the issues that are at hand.

Our Constitution is a tough document to change, as well it should be. But I think our citizens speak out today more loudly than they ever have. They are unhappy, and they have reason to be unhappy. They watch this Congress spend this Nation toward bankruptcy, oh, all in the name of something good, but absolutely with no care of fiscal responsibility.

Today, this amendment offers up a small modicum of an approach toward just that, allowing us to divide up, to separate, and for our President to become or the executive branch to become a greater participant in the business of budgeting for our Government and for the citizens of this country.

I strongly support this legislative effort, this amendment. I think it is appropriately placed, and I would certainly hope that a majority of the U.S. Senate could stand in support of a legislative line-item veto.

I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. I yield 5 minutes to the Senator from Wyoming.

The PRESIDING OFFICER. The Senator from Wyoming is recognized for 5 minutes.

Mr. SIMPSON. I thank my colleague from Arizona, Mr. President, and I admire him greatly for pursuing something he deeply believes in, and that is his strength. When Senator JOHN MCCAIN is on an issue, he gives it his absolute fullest vigor and enthusiasm and intellect and brings all of those to the cause. I commend, too, my colleague from Indiana, Senator COATS, for his tireless work on this issue, and for his cogent arguments today.

Obviously, we have had a very compelling debate. I do support the line-item veto authority. It has been said again and again that 43 Governors have it, that 43 States have recognized that line-item veto authority is essential in maintaining a balanced budget. A very good friend of mine, a Democrat from Wyoming, Ed Herschler, Governor for 12 years, used it vigorously and in most cases quite appropriately.

I know better than to debate historical issues with the distinguished chair of the Appropriations Committee, our remarkable and respected colleague, the President pro tempore. One word, "respect," would summarize his service to the country.

I have listened with great interest to the historical facts surrounding this issue, and I just wanted to add one further one that I think is most interesting. We should remember that the veto au-

thority of the Presidency has never at any point been set in stone as having a particular form.

My colleagues well know—and Senator BYRD spoke of it, he spoke of President Washington, but I am sure my colleagues know—President Washington sought to avoid having to veto legislation at all costs. It was his view that it was an emergency measure to be used only in dire circumstances. Indeed, the Presidents which followed Washington seemed to adhere to a view that the veto could only be applied on constitutional grounds. Simply vetoing a bill because the Chief Executive disagreed with it was considered to be of dubious constitutionality and maybe a little in bad taste, too. But it was Andrew Jackson in his vetoing of the rechartering of the bank of the United States who established the principle the President could merely, because he disliked the piece of legislation, refuse to sign it.

The exact nature of the veto power of the President has never been beyond dispute. No one can say with absolute certainty just what authority of that type the Constitution granted to the President. When Abraham Lincoln employed a pocket veto during his tenure, he was widely criticized for a usurpation of authority.

So these uses of the veto power were at one time considered unthinkable. And now we see them as no way inconsistent with constitutional veto authority.

We do hear all the time around here, "Why do you people not get serious about balancing the budget?" We hear a lot of talk about how deficits have skyrocketed during the last decade.

One would think that the President alone has been voting on budgets during all of that time and just taking us to doomsday. He has not been. In fact, he has no say.

In my time here, I have seen enough where his budget comes up here and the first thing that is often said, at least in the other body, is "dead on arrival." They add 20 percent to it over there, try to get us to take off 10, and we play that game and the American public apparently swallowed it.

So the President does have no say under current practice as to the particulars which are contained in appropriations bills. There is a choice of two options: either sign it or veto it. If he wants to keep funding the many necessary tasks of Government, he has to now swallow—or better yet, gag on—every pork barrel project which Congress chooses to include.

There are a lot of people who say this is a time of fiscal crisis and we need to take meaningful and drastic action to reduce the budget deficit. This is said at the same time as we all in this Senate, every single one of us, work like dogs to include our own favorite spending projects in the appropriations bills and to ship them down to the White House for signature.

It seems that many want to blame the President for the soaring deficit. I have heard some thrilling debate on that in the last days—and I have seen many charts. But they recoil at the thought of his having the means to do one single thing about it.

So I ask my colleagues, is that not curious? If this is truly the man, the evil man, the man at 1600 Pennsylvania Avenue who is totally responsible for this runaway spending activity in our coun-

try's budget, what on Earth then is to be feared by giving him line-item veto authority? What is the fear?

So I suggest that the reaction of this Senate to the Presidents having line-item veto authority is proof that that authority is really something to be feared—plain f-e-a-r—around here; that the man in the Oval Office is not indifferent and he would use that line-item veto to attack many of our favorite projects. I think it is time to call the bluff.

We have a national debt of \$4.145 trillion—\$4.145 trillion—and a budget for 1 year of \$1.5 trillion, and a deficit of \$365 billion, or pick your number, and that is the result of the current practice that the President must swallow congressional spending whole, or not at all. Surely, our Government will not work less effectively if there were a middle road for the President—and therefore the budget—to take.

I thank Senator MCCAIN, and encourage him in his effort.

The PRESIDING OFFICER. The time of the Senator from Wyoming has expired.

Mr. MCCAIN. I yield myself 7 minutes.

Mr. President, I thank my friend from Wyoming for his kind words and, more important, for his eloquent statement on behalf of this very important issue.

I also again would like to express my appreciation to my friend from Indiana. I believe we are now in our 10th year of waging this battle together. I must say things look a lot better now than they did 10 years ago. I say that with mixed emotions because the urgency of this issue is dramatically exacerbated by the incredible deficit that is now burdening the American people that my friend from Wyoming just referred to.

Mr. President, I ask unanimous consent that letters from the Citizens Against Government Waste, Citizens for a Sound Economy, the United States Business and Industrial Council, National Taxpayers Union, International Mass Retail Association, and Cofire, [Coalition for Fiscal Restraint], be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

COUNCIL FOR CITIZENS
AGAINST GOVERNMENT WASTE,
Washington, DC, February 24, 1992.

Hon. JOHN MCCAIN,
U.S. Senate, Senate Russell Office Building, Washington, DC.

DEAR SENATOR MCCAIN: On behalf of the Council for Citizens Against Government Waste (CCAGW), I am writing to express our support for the legislative line item veto act, which you and Senator Coats plan to offer in the near future. We salute your leadership on this important issue, as well as your protest against unauthorized defense spending.

CCAGW has long supported your legislation to give the President the same authority which 43 governors now exercise. The line item veto is an essential tool to enable the President to control the spending machine in Washington.

The legislative line item veto would lead to the elimination of egregious pork barrel spending as revealed in CCAGW's 1992 Pig

Book, with 59 items worth \$372 million. In addition, it would help attack the more than 850 items of pork worth \$8 billion which CCAGW uncovered in the 1992 appropriations bills.

With a federal deficit expected to reach an unprecedented \$400 billion next year, the line item veto could not be more timely.

Senator McCain, the 450,000 members of CCAGW fully endorse your valiant fight to eliminate government waste. Your continued efforts to put this nation's fiscal house in order demonstrate that you are a true friend to American taxpayers.

Sincerely,

THOMAS A. SCHATZ,
Acting President.

FEBRUARY 24, 1992.

Senator JOHN MCCAIN,
U.S. Senate,
Washington, DC.

DEAR SENATOR MCCAIN: On behalf of our 250,000 members, Citizens for a Sound Economy (CSE) thanks for your leadership in adopting the line-item veto. As you know, CSE will use this "KEY VOTE" to calculate eligibility for our annual Jefferson Award program and will report each senator's veto on your amendment to CSE members in their respective states.

This budget process reform has very broad support. In fact, the top four presidential candidates in New Hampshire—George Bush, Pat Buchanan, Paul Tsongas, and Bill Clinton—all support the line-item veto. As you know from your constituent mail and town hall meetings, taxpayers are sickened to read about pork-barrel programs that squander the money they send to Washington, especially when this country faces a record deficit of \$399 billion this year. The General Accounting Office (GAO) recently estimated that a line-item veto could save more than \$70 billion over a five-year period. The GAO based its findings on the Office of Management and Budget's "Statements of Official Policy," and it assumed the president would veto every spending measure he opposed. With a presidential line-item veto, even more wasteful programs than the \$70 billion already identified might be eliminated.

The share of the gross federal debt borne by the average family of four will reach a record \$64,000 this year. Part of that burden could have been erased if Congress had instituted a line-item veto earlier. It is high time that Congress adopt this budget process reform and grant the president the veto authority that 43 governors already possess. Thank you once again for your leadership in helping make the line-item veto a reality.

Sincerely,

PAUL BECKNER,
President.

U.S. BUSINESS & INDUSTRIAL COUNCIL,
Washington, DC, February 25, 1992.

DEAR SENATOR: This week, Senator John McCain will offer an amendment to an appropriate piece of legislation which will specifically grant the President the power of the Line Item Veto.

On behalf of the 1,500 member CEOs of the United States Business and Industrial Council, I urge you to take this important step to provide fiscal sanity to the federal budgeting process.

Forty-three of our nation's governors have a line-item veto. It is hard to imagine a company where the CEO would have as little control over his corporate budget as the President of the United States has over the Federal budget—unfortunately, the process of submitting a budget to Congress amounts to tossing it into an abyss, never to be heard from again.

As the deficit and the national debt continue to climb, the need for fiscal reform like the line item veto becomes more and more evident. We urge you to give the President the power to control federal spending that is, apparently, out of control.

Sincerely yours,

JOHN P. CREGAN,
President.

NATIONAL TAXPAYERS UNION,
Washington, DC, February 25, 1992.

Hon. DAN COATS,
U.S. Senate,
Washington, DC.

DEAR SENATOR COATS: On behalf of the National Taxpayers Union's 200,000 members I want to thank you and Senator Coats for offering a line item veto amendment, which would allow the President to cut wasteful pork barrel spending.

As you know, an all too common Congressional tactic is to attach parochial, pork barrel appropriations to must-pass legislation that the President has little choice but to sign. Since most of these provisions are neither the subject of debate nor vote, many Members of Congress do not realize they exist. The McCain-Coats line item veto would allow the President, Republican or Democrat, to draw attention to pork barrel provisions and force their proponents to justify them. Meritorious provisions would stand under Congressional scrutiny, and the rest would be eliminated.

Additionally, the line item veto would make the President more accountable on the issue of wasteful spending. Many Presidents repeatedly criticize Congress on its spending. By giving line item veto authority to the President, Congress would be telling him to work actively rather than rhetorically to trim wasteful spending.

Although the discretionary account of the federal budget is by no means the largest, it is an area of tremendous waste and abuse. Our national debt is now over \$3.8 trillion, and recent projections for the FY92 deficit are \$400 billion. Clearly Congress needs to re-evaluate its spending practices and take strong steps to restore fiscal discipline. The line item veto is one of those steps, and would be an important sign to taxpayers and voters nation-wide that Congress is finally taking our fiscal crisis seriously.

Again, thank you for sponsoring this amendment. It is my hope that all Senators will support this crucial measure.

Sincerely,

JAMES D. DAVIDSON,
Chairman.

INTERNATIONAL MASS RETAIL ASSOCIATION,
Washington, DC, February 25, 1992.

DEAR SENATOR: The International Mass Retail Association (IMRA), on behalf of the mass retail industry—discount and off-price stores, warehouse clubs and other price-competitive mass retail stores—strongly supports legislation to give the President the same deficit—fighting tool available to nearly all the nation's governors: a line-item veto.

IMRA represents over 100 major discount retail chains accounting for approximately \$150 billion in sales last year. IMRA's membership includes stores in every state; IMRA members employ literally millions of Americans. The highly competitive and efficient mass retail industry operates at a low mark-up and provides quality merchandise at affordable prices to most Americans.

IMRA supports efforts by Senators McCain and Coats to offer a line-item veto amendment to S. 479, the National Cooperative Research Act Extension of 1991, and urges your support for the McCain-Coats amendment. IMRA and its members firmly believe a line-item veto is a useful step in restoring spending discipline and reasserting control over budget deficits, an extremely serious issue both for economic recovery and future growth.

As noted in a General Accounting Office study released January 22, a line-item veto could have pared about \$70 billion from Federal spending between 1984 and 1989. Although not a substitute for increased Congressional efforts to curb the rate of growth in Federal spending, it would be a constructive start. With bipartisan support, a line-item veto can become a reality this year.

Once again, please support the McCain-Coats amendment.

Sincerely,

ROBERT J. VERDISCO,
President, IMRA.

COALITION FOR FISCAL RESTRAINT,
Washington, DC, February 14, 1992.

Hon. JOHN MCCAIN,
U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR: The more than eighty undersigned member-organizations of the Coalition for Fiscal Restraint (COFIRE) are deeply concerned over flaws in the current budget process.

As evidence, this year federal spending will exceed 25 percent of GNP for the first time since World War II, and the federal deficit will reach a record \$362 billion, contributing further to the immense burden of debt we are leaving to future generations.

We believe that one step in reforming the process which has contributed to this persistent deficit spending would be for Congress

to place more responsibility for fiscal restraint on the Executive Branch.

It is for this reason that we are writing to urge your support for the Legislative Line Item Veto Act (S. 196) whose sponsors plan floor action early this year. A brief summary of S. 196 is enclosed.

This proposal would give the President enhanced rescission authority, retaining for Congress the power to reject presidential rescissions by a simple majority vote in both houses with such rejections then subject to the constitutional veto process.

On our behalf and on behalf of the vast majority of Americans who favor placing this burden on the Executive Branch, we urge your vote in support of S. 196 when its sponsors, Senators Coats and McCain, bring it to the Senate floor in the near future.

Respectfully,

MICHAEL MONRONEY,
Chairman, COFIRE.

(Note: Members of the Coalition for Fiscal Restraint endorsing this letter are listed on succeeding pages.)

Karen Meredith, President, American Association of Boomers.

Dean Kleckner, President, American Farm Bureau Federation.

Samuel A. Brunelli, Executive Director, American Legislative Exchange Council.

J. Patrick Boyle, President and Chief Executive Officer, American Meat Institute.

Richard Lewis, President, American Pulpwood Association.

James L. Ziegler, Chairman of the Board, American Rental Association.

David Miner, Chairman, Americans for a Balanced Budget.

Grover G. Norquist, President, Americans for Tax Reform.

Charles E. Hawkins III, Senior Vice President, Associated Builders and Contractors.

Joe M. Baker, Jr., Executive Vice President, Association of Wall and Ceiling Industries-International.

George W. Mervin III, President, Automotive Service Association.

Richard L. Leshner, President, Chamber of Commerce of the United States.

Thomas A. Schatz, Acting President, Citizens Against Government Waste.

Peter Roff, Executive Director, Citizens Against a National Sales Tax/VAT.

Paul N. Beckner, President, Citizens for a Sound Economy.

Art Kelly, Vice President, CNP Action, Inc.

Eric Licht, President, Coalitions for America.

Jeffrey C. Smith, Executive Director, Commercial Weather Services Association.

Barbara Keating-Edh, President, Consumer Alert Advocate.

Gary D. Engebretson, President, Contract Services Association.

John M. Martin, Executive Vice President, Dairy and Food Industries Supply Association.

Frank L. Jensen, Jr., President, Helicopter Association International.

Robert N. Pyle, President, Independent Bakers Association.

E. Linwood Tipton, President, International Ice Cream Association.

Robert J. Verdisco, President, International Mass Retail Association.

W. Don Ladd, Vice President, Marriott Corporation.

The Honorable John R. Block, President, National-American Wholesale Grocers' Association.

Walter E. Galanty, Jr., President, National Association of Brick Distributors.

W. Dewey Clower, President, National Association of Truck Stop Operators.

David E. Strachan, Executive Vice President, National Candy Wholesalers Association.

Robert E. Barrow, Master, National Grange.

Donald A. Randall, Executive Vice President, National Independent Dairy-Foods Association.

Edward N. Delaney II, President, National Tax Equality Association.

Lewis K. Uhler, President, National Tax Limitation Committee.

James D. Davidson, Chairman, National Taxpayers Union.

Benjamin Y. Cooper, Senior Vice President, Printing Industries of America.

Wayne J. Smith, Executive Director, United Bus Owners of America.

George S. Dunlop, President, United Fresh Fruit and Vegetable Association.

John P. Cregan, President, United States Business and Industrial Council.

Paul Cardamone, President, United States Federation of Small Business.

Other COFIRE member-organizations which endorse this letter are as follows:

American Amusement Machine Association.

American Conservative Union.

American Cyanamid Company.

American Furniture Manufacturers Association.

American Iron and Steel Institute.

American Trucking Association.

Amway Corporation.

Armstrong World Industries.

Baroid Corporation.

Beer Drinkers of America.

Chocolate Manufacturers Association.

Committee for Private Offshore Rescue and Towing.

Composite Can and Tube Institute.

Coors Brewing Company.

Eckerd Drug Company.

FMC Corporation.

W.R. Grace and Company.

Eli Lilly and Company.

Koch Industries.

Medford Corporation.

Milk Industry Foundation.

National Association of Convenience Stores.

National Association of Home Builders.
 National Association of Manufacturers.
 National Cattlemen's Association.
 National Cheese Institute.
 National Confectioners Association.
 National Food Brokers Association.
 National Limousine Association.
 National Printing Equipment and Supply Association.
 National Private Truck Council.
 Nestle Holdings, Inc.
 New England Machinery, Inc.
 Reynolds Metal Company.
 Sears, Roebuck and Company.
 The Seniors Coalition.
 Sun Company.
 Sybra Corporation.
 Truck Renting and Leasing Association.
 Valhi, Inc.
 Walgreen Company.
 White Consolidated Industries, Inc.
 Whitman Corporation.

Mr. MCCAIN. Mr. President, again, I would like to thank all those organizations, including Cofire [Coalition for Fiscal Restraint], some 83 different organizations, who have expressed their support.

Mr. President, I would also like to respond to the comments of the senior Senator from Arizona [Mr. DECONCINI] who spoke earlier about numerous projects in our State of Arizona which he believes would not be funded if the President had a line-item veto.

Let me say that I do not share that point of view. All the projects listed, I believe, should and would stand on their own substantial merit. But far more important than that, this amendment is not about projects, it is about process; it is about repairing a badly broken process. I am confident that the needs of the people of my State or any State in the Union can be met through an open and above-board process as dictated, in my view, by the Constitution—including hearings, authorization, appropriations, and signature by the President.

We do not need to rely on any back room deal or horse trading or anything else. And our children cannot afford the deficits that result from these deals. Let us bring balance to our fiscal affairs. That is all our amendment does.

Alexander Hamilton said in Federalist 73:

"When men, engaged in unjustifiable pursuits, are aware that obstructions may come from a quarter which they cannot control, they will often be restrained by the bare apprehension of opposition from doing what they would with eagerness rush into if no external impediments were to be feared."

Your amendment will restore the balance of power that served our Nation so well. I will restore the President to his rightful role in our system of checks and balances. The Framers of the Constitution understood the importance of that balance, and so should we.

Anyone who needs help in attaining that understanding should look at the growth of our debt: 1960, \$236.8 billion; 1970, \$283.2

billion; 1980, \$709.9 billion; 1990, \$2.4 trillion, soon to be \$4 trillion—\$13,000 in debt for every man, woman, and child in America. If anyone believes that the system under which we operate is not broken, I do not think they understand very well what the system is doing to the American people.

I would like to again quote from the letter from President Bush, which I appreciate very much; he says:

Billions upon billions of dollars have been wasted over the years on programs of a parochial nature with dubious value to the American taxpayer. The line-item veto approach, whether instituted through the constitutional amendment I have previously proposed or through your statutory initiative, is the best way to prevent future wasteful spending and to rein in deficit spending.

I appreciate and fully support your amendment.

Sincerely,

GEORGE BUSH.

Mr. President, I express again my hope and guarded optimism that after the failure of this vote, the President of the United States will seize the first opportunity, the first appropriations bill that comes across his desk, to exercise the line-item veto and take it to the courts.

I do not have confidence that that case will either win or lose, but I do know this: If it loses, I do not see that we are any worse off than we are today with this very flawed and broken system. If he wins, that will be an affirmation of the belief that I and a substantial number of constitutional scholars—and I do not include myself in that group of constitutional scholars, the belief that the President already has that constitutional right. So I hope he will do that.

I do appreciate the fair and honest debate that has taken place. It is always a great educational experience in observing the scholarly and, indeed, enlightened views and opinions of our distinguished chairman of the Appropriations Committee.

Again I would like to thank Senator COATS and all those who have supported this amendment including the 28 cosponsors.

Mr. President, I yield the remainder of the time to Senator COATS of Indiana.

The PRESIDING OFFICER. The Senator from Indiana is recognized. The Chair will advise the Senator that 7 minutes and 50 seconds remain on this side.

Mr. COATS. Mr. President, I am new to the Senate and I do not know all the procedures. Is it customary for the proponents or opponents to close debate on the amendment? Or is there no custom?

The PRESIDING OFFICER. There is no custom with respect to—

Mr. MCCAIN. If I might mention, if the Senator will yield for 1 second, Senator BYRD and I were in agreement in earlier discussion that he would close the argument for 10 minutes.

Mr. COATS. I certainly have no problem with that and will be happy to close out our side of the debate and then the remaining 10 minutes will be Senator BYRD's.

Mr. President, I want to begin my closing remarks by complimenting Senator BYRD for what is truly a prodigious effort on

the floor of the Senate. The amount of research and the sheer time invested in preparation for his defense of the power of the purse is an awesome feat and his physical endurance in standing on his feet for more than 7 hours yesterday is something that many of us respect. I do respect it.

But I also need to say I respectfully disagree with the conclusions reached by the distinguished Senate from West Virginia that this amendment before the Senate today denies the constitutional right to this legislative body to control the power of the purse. I think a fair reading of the amendment does not result in that conclusion. It does not destroy the power-of-the-purse authority granted to this body by our Constitution, nor does it shift that power to the executive branch. It does not destroy the separation of powers doctrine. It partly restores the separation of powers. It partly restores the balance of power that I think our Founding Fathers and our Constitution intends.

The reform embodied in this amendment would be nothing more or less than return the budget process to the practice of 185 years of American history.

Congress grabbed the power of unlimited political pork in 1974, not at the Battle of Hastings, and it has abused that power ever since.

Our President is annually blackmailed by Congress every time an appropriations bill is sent to the White House—given no option other than accept the entire bill or reject the entire bill, no option to exercise any power whatsoever in terms of how the taxpayers' dollars will be spent. As I indicated earlier in my remarks, the President's exercise of a line-item veto under this measure simply returns the line item to this body where it has every right and every power to restore it.

Mr. President, many feel the legislative branch, this Senate and the House of Representatives has forfeited its claim to exclusive control of spending by an abuse of the power that it granted itself in the Budget Act of 1974. Many feel that our current system is a mockery of the process that our Founding Fathers intended.

A vote to defend political pork at this sober economic moment in particular threatens to make this institution a laughingstock. This should be the subject of Senator BYRD's concern, because I know he loves the Senate and I know he cares about this institution more deeply probably than anyone else.

Opposing budget reform and spending restraint extinguishes our credibility before a watching Nation. It reveals an institution that has misplaced its sense of shame. Expressions of outrage over the deficit without an equal passion for change is hypocrisy.

This Congress has no right to pained concern about our debt when it remains frozen in the ice of our own indifference. At a time when we have \$300 billion, on an annual basis, and are approaching a \$4 trillion national debt, that we cannot even institute a reform as simple as this to stop an addiction to irresponsible pork barrel spending is not a tribute to this institution. I think it is an embarrassment to this institution.

The measure that Senator MCCAIN and I have offered will put an end to the irresponsible practice of attaching and hiding pure

self-serving pork barrel measures to massive spending bills and sticking it to the President and the American people.

If the Senate cannot take this small step today, the Senate will never be able to exercise fiscal discipline. The distinguished Senator from West Virginia, in one of his eloquent statements, made reference to those who support the line-item veto by quoting our Lord's words when he said, "Father, forgive them; for they know not what they do."

I think far more appropriate would be for the 100 Members of this Senate to turn to our children and our grandchildren, and future generations to come, and say, "Forgive us for what we have done; for saddling you with a burden of debt which you may never be able to climb out from under."

A simple piece of reform is what is at issue here today. Those who like the status quo; those who say "If it ain't broke, don't fix it; it is working just fine"; those who say we do not need to take any steps, any measure to change the way we currently do business; those should vote against this amendment.

Those who feel that the system is broke; that it is not delivering what the American people are asking us to deliver; that it is not exercising fiscal responsibility, that we have the responsibility to exercise it; those that feel that we ought to reform the way in which we spend the taxpayers' dollars will support the measure that Senator MCCAIN and I have offered.

Mr. President, it has been a good debate. It has been a constructive debate. As I said in the bargaining, I respect the prodigious effort of the President pro tempore of the Senate, the distinguished Senator from West Virginia. He has laid a record, a historical record, a record of research, of commitment, and precedent.

I respectfully disagree, and ask my colleagues to support this small measure of reform.

I yield the floor.

The PRESIDING OFFICER. The Chair would inform the Senator from Indiana that all time on his side has been utilized.

Mr. HELMS. Mr. President, in this debate the opponents of a line-item veto have made some fascinating contradictory arguments.

On the one hand, they have argued that the Coats-McCain amendment is not a solution to our budget problems because it affects only a tiny portion of the budget. Therefore, they contend, we should not pass it. Then they turn around and argue that this proposal would fundamentally change the balance of power between the executive and legislative branches because it would give the President so much power.

Then the opponents argue that Congress is simply trying to pass the buck to the President by giving him the line-item veto. They argue that Congress must control our budget problems by "having the courage to make tough choices." In the same breath, they turn around and blame the President, specifically President Reagan, for the budget deficits we are facing today.

Mr. President, with all due respect, they cannot have it both ways. Let me first address the argument that has been made that Congress appropriated less money during the Reagan administration than the administration requested. As a matter of fact, my

staff has compared the appropriations bills during those years with the budget requests.

To make such a comparison is not as easy as it would seem, but I think we came up with pretty accurate results. We found that when you compare the budget estimates with each appropriation bill as passed by Congress, that Congress appropriated approximately \$17 billion more than was requested by the administration.

However, when you exclude the requests for defense appropriations, which Congress consistently underfunded, Congress appropriated approximately \$130 billion more than requested. So let's discard the notion that Congress has been so frugal in the budget process during the Reagan years.

So I guess it is put-up-or-shut-up time for Congress, Mr. President. All of us can manufacture excuses for what we do or what we fail to do. But if we are unwilling at this crucial time to accept a discipline that will be difficult—some will even say it is impossible—then we are saying there is no remedy. And I say there is. I call upon my colleagues in the Senate and the House publicly to acknowledge the real danger in which our debt-hobbled Nation finds itself. I call upon my colleagues to forswear political and partisan interests as the Congress once again addresses this vital issue of a line-item veto. The interest that should matter most to all of us at this moment in history is our national survival as an economically and fiscally healthy United States of America.

Mr. SANFORD. Mr. President, before we rush to institute a line-item veto under the pretense of reducing the deficit, perhaps the current administration should show its commitment to deficit reduction by submitting balanced budgets to Congress.

When President Reagan began his first term in 1981, the Federal debt was less than \$1 trillion. This year, after 8 years under President Reagan and almost 4 years under President Bush, the Federal debt will exceed \$4 trillion. These Presidents together have had almost 12 consecutive years to put Federal spending on a proper path to balance the Federal budget. Instead of getting the job done, they have called for a constitutional amendment to require them to balance the Federal budget, and they have called for line-item veto authority to help them balance the Federal budget.

Instead of submitting balanced budgets to Congress, the White House has for almost 12 years used the constitutional amendment and line-item veto as a gimmick.

We have heard many Senators speak of the need for the line-item veto as a means of reducing the Federal deficit. It will hardly make a dent. Whatever might be said in behalf of the line-item veto, it cannot be said that it is an answer to, or would have much effect on, the rising debts and deficits. Our job of fiscal responsibility requires tougher action.

To maintain that the line-item veto is an appropriate budgeting tool and balances the powers between the executive branch and Congress is a farce. The President has in his power several means of controlling the budgetary process which he seems reluctant to use. Before we rush to institute a line-item veto under the pretense of reducing the deficit, perhaps the administration should show its commitment to deficit reduction by submitting balanced budgets to Congress.

The budget for fiscal year 1993, which President Bush submitted to Congress in January, increases the national debt by \$464 billion. Surely, if he is serious about controlling the debt he would start by balancing the budget before he submits it to Congress and the Nation. He does not need a line-item veto to take out his own lines. He can simply do what neither he nor President Reagan have ever done, send Congress a balanced budget.

The claim has been made by Members of this body that the line-item veto would save significant U.S. taxpayer dollars. I believe that such statements are made only to appeal to the urgency of the deficit issue without developing substantive policy measures.

Is the President really in a position to judge whether congressional budget additions are worthy projects? The President can stand in Congress and laugh at grants for peas, lentils, peach, and catfish research, and he may be right, but maybe he is not, and who is the best one to sense what is helpful for neglected regions and small communities, the local Congressman, the Senator, or some White House budget staffer who writes a memo to go into the President's line-item veto message?

I will stick with the people's elected Representatives.

The truth is that most of those congressional items ought to be cut. Who knows better than a Member of Congress how crucial project funding may be to a local area? To allow the administration, with relatively little contact with small constituencies, to decide what is important to communities across the United States would be a gross misrepresentation of the American public.

Touting the line-item veto as a necessary tool for providing balanced budgets is a great fallacy, and another in a series of budgetary gimmicks. The administration already has extreme influence in the budgetary process. It submits its budget to the Congress yearly, setting the national spending priorities and the stage for policy discussions. If now the administration claims it needs the line-item veto as a tool to balance the budget, I would like the administration to answer why, if it feels balanced budgets are so important, does it not submit balanced budgets to Congress.

If the administration is so committed to fiscal restraint, then the administration should prove its commitment by developing a budget which implements spending reductions. If there is so much fat in the budget that can be so easily dismissed, then the President should come forward with those suggested cuts as part of his budget submission. Instead, this President, who now so much wants the line-item veto authority, submitted a budget that will add \$464 billion to the national debt.

In addition, if the President is serious about controlling the budget deficit by attacking the spending bills, he may use his general veto authority and power of rescission. Although these two methods require much more interaction with Congress and may pose political dilemmas for the President, they are avenues that do exist and could be useful if the President were to utilize them. Presidents Carter and Reagan used rescission successfully. Two-thirds of the dollar amount Carter rescinded was accepted by Congress.

My last, but most important objection, with the line-item veto is that it would radically upset the balance of power between the

President and Congress. I suppose very few hard-working people, struggling with their own problems, care much about a power dispute between Congress and the President. But the balance of power, with not one branch too strong, was essential to the Founding Fathers, and it is important today to the best interests of citizens. It cannot be disputed that if the line-item veto were instituted, the President would use it to exert extraneous pressure on Members of Congress, for example, to hold local waste treatment projects hostage in order to get support of his veto of child care legislation.

Senator Charles Mathias spoke eloquently to what this kind of shift of power might mean. "For example," he said, "if President Reagan does not like my position on the issue of school prayer, and if he acquires the power to kill funds for the program that I have long supported to save the Chesapeake Bay * * * then the President * * * has a hostage. He can hold the Chesapeake for the ransom of my support * * * for State-sponsored prayer in school or any other subject that he might want my support on. * * * In my opinion it would destroy the balance that exists between * * * the executive and legislative branches."

Mr. President, we should take seriously these words from our former colleague from Maryland. Most local citizens and all local and State governments will be badly served by giving the President line-item veto authority over local projects. The line-item veto would muffle the public's voice and put a very long distance between the American people and Federal spending choices.

For the reasons I have discussed, I urge each one of my colleagues to carefully consider the line-item veto proposal before us. We cannot allow ourselves to be influenced by political situations and the current budgetary crisis into altering the balance of power our Founding Fathers were so enlightened to incorporate in our system of government. If we want to correct our Federal deficit we should do so with the tools at hand; and the President should begin by submitting honest and balanced budgets.

Mr. DURENBERGER. Mr. President, I rise to speak in opposition to this amendment which would grant to the President a line-item veto.

My record on this issue is clear and consistent. This is the ninth time in my Senate career that I have had to vote on a line-item veto. On each of the eight previous occasions, I have voted against this idea. And I will do so again.

Mr. President, with the Federal budget deficit at \$400 billion, many of my colleagues think the line-item veto will provide the silver bullet that will restrain Federal spending. If I believed that, I would long ago have supported this idea. But no one seriously believes that granting the President the authority to line-item veto projects like the Lawrence Welk Museum will do anything to resolve our fiscal woes.

I would be far more inclined to consider supporting a line-item veto, if we concurrently had in place a statutory or constitutional requirement that Congress annually report a balanced budget. In that case, if Congress sent the President a deficit financed budget, it makes sense to give the President the authority to pick and

choose which congressional spending projects should be eliminated to meet the legal requirement of a balanced budget.

But since we do not have the courage to adopt a balanced budget law, I cannot support this proposal.

Mr. President, it is just not possible for this Senator, or any Senator, to add to the history and analysis of the constitutional derivation of the veto power presented by the distinguished Senator from West Virginia [Mr. BYRD].

But I would like to take a moment to explain why I oppose the idea of a line-item veto. In my view, it is simply a matter of shifting the balance of power that existed in our tripartite Government for more than 200 years. A shift that will permanently change the shape of our democracy.

Mr. President, in 20 of the last 24 years, the American public has lived with divided Government, with Republicans controlling the White House and Democrats the Congress. Both parties have had to work together, to compromise, in order to adopt legislation we believed to be in the best interests of our country. In some of those bills, compromise was only achieved because components of such bills contained measures important to a particular State or region of the country.

But I would suggest to all of my colleagues, especially my colleagues on this side of the aisle, that if we adopt the line-item veto, we will create a self-imposed legislative gridlock. And we will have shifted an extraordinary amount of authority from the legislature, from the Representatives and Senators of the 50 States, into the executive.

Mr. President, the current occupant of the White House is a Republican, and I would surely hope that President Bush will remain in the White House through 1996. If that happens, and if the line-item veto is adopted, I and my 42 Republican colleagues should be comfortable in knowing that it will be unlikely that our legislative proposals will be line-item vetoed.

But one day, it is possible a Democrat will occupy the White House. And if that unlikely event occurs, I would suggest that all of my Republican colleagues will face the threat that their State's interests may be targeted for vetoes. The line-item veto will allow all future Presidents to pick and choose items to veto not on merit, but solely on the basis of political partisanship. A Democratic President might find it politically useful to my 1994 Democratic opponent to line-item veto a nursing home project critical to my Minnesota constituents.

Mr. President, I suggested earlier that this institution is founded on legislative compromise. There is always give and take in crafting legislation. That has been our tradition for more than 200 years. Yet why should any Senator, especially a Senator in the party that does not control the White House, compromise on anything if he knows that the President can pick and choose to veto those parts of a bill that the Senator supports.

Instead of compromise, I can assure you that we will see endless filibusters. Senators will block legislation until they receive guaranteed assurances from the White House that the items important to their States will not be line-item vetoed. Is that what our colleagues want? More filibusters, more cloture petitions, more end-

less debate. That is exactly what will result if we adopt this proposal.

Mr. President, I urge my colleagues to reject this amendment and to get on with the serious business of governing a nation that is looking with greater skepticism at how we conduct the people's business.

Mr. HATFIELD. Mr. President, the chairman of the Appropriations Committee has virtually exhausted the arguments that can be made against this proposal. I support his position absolutely, and have just one brief suggestion to make.

I suggest that the advocates of this proposal take better advantage of the existing rules and procedures of the Senate to advance their cause. There is still unlimited debate in the Senate. Senators can exercise their rights under the rules to take all the time they want to examine bills and reports, raise objections, offer amendments, and round up votes. I am confident that the proponents of this proposition, and their capable staffs, are fully able to identify provisions of appropriations bills and reports that they find objectionable, and craft amendments to resolve those objections. Let them offer those amendments, and let us vote.

In those rare occasions when the Senate is faced with a conference report on an appropriations measure with no amendments remaining in disagreement to which further amendments might be adopted, thus forcing the Senate to an up or down vote on the entire measure, let me suggest this to the proponents. Presumably, they speak on behalf of the President. I should say as an aside that the principal sponsors of this proposal presume that the President will always be a Republican. But in any event, the proponents put great faith in the executive branch. Let the proponents encourage the President, then, to come forward with rescission proposals pursuant to title X of the Budget Act. I understand the President will do just that in the next day or so in regard to certain matters funded in fiscal year 1992 defense appropriations bill. That rescission message will be referred to the Appropriations Committee. If I read the Budget Act correctly, after 25 days the measure can be discharged on the petition of 20 Senators. Then the rescissions can be debated and voted on, and if the measure passes, the funds are rescinded.

So there is a mechanism the proponents of this matter can pursue to achieve their purpose. Of course, it means they must take the responsibility themselves, and not rely on the President to take it on for them, but I have every confidence that they will not shirk from that responsibility.

Mr. WOFFORD. Mr. President, the Federal budget deficit is a serious problem. It is reducing our national savings and eroding our Nation's ability to compete internationally. Unless we overcome that deficit our children and grandchildren will not enjoy the better world we hope to leave.

But the line-item veto would not be a solution. A Federal line-item veto would probably have little impact as a deficit reduction measure because much of the Federal budget, particularly entitlements, interest payments and taxes, would not be subject to it. In 1993, only 35 percent of Federal spending will be discretionary spending and, therefore, subject to a Presidential line-item veto.

And by excluding revenues, which the President estimates to be over \$1.1 trillion in 1993, the line-item veto could merely result in more tax loopholes as special interests seek to make up for lost Federal spending. Honest, serious deficit reduction will require a comprehensive approach to all aspects of the budget—not just discretionary spending.

For over 10 years, the Bush and Reagan administrations have claimed the need for the line-item veto to bring the deficit under control. But this is just smoke and mirrors. They seek to place the blame solely on the Congress—when the fact is that this administration has not once proposed a balanced budget or proposed a realistic solution to the budget deficit.

The net effect of a line-item veto would not necessarily be budget savings. Rather, it would provide a preference for executive spending priorities over legislative priorities. And as the current administration has shown—those priorities are often wrong. The President's 1993 budget proposal is full of examples of program cuts that would hurt the people of Pennsylvania and all States. He would for example eliminate trade adjustment assistance for workers dislocated from jobs because of foreign competition and mass transit assistance for cities with populations over 500,000. He proposed major cuts in the HOME Program, which creates new affordable housing opportunities, and the low-income housing weatherization program, which helps people afford to stay in their homes.

I do not agree with all congressional spending decisions. Some blame for our deficit of course lies in this body. However, the line-item veto proposal ignores the President's participation in creating the increased Federal deficits. All the line-item veto would do is transfer power from the legislative branch of Government to the executive branch without any guarantee of a more effective Government or reduced budget deficits.

Finally, the State experience with line-item vetoes has not always been positive. The line item veto is the power that a majority of State Governors have to reduce or eliminate individual provisions in bills offered by their State legislatures. The House Budget Committee concluded in 1984 that the power of the line-item veto on the States has given rise to significant political strife and, at times, threatened the shutdown of Government services.

Both the Congress and the President need to be involved in serious budget reduction. I cannot support a proposal, such as the line-item veto, that would reduce the accountability of Members of Congress to solve the budget deficit, shift the constitutionally established separation of powers sharply in favor of the President, and not necessarily get us any budget savings.

Therefore, I urge my colleagues to vote against the pending amendment.

Mr. HOLLINGS. Mr. President, I rise today in support of efforts to grant the President line-item veto power. It is an excellent discipline to control wasteful and unnecessary appropriations and thereby reduce the Federal deficit. My amendment, a statutory, separate enrollment line-item veto is identical to a measure previously considered by the 99th Congress as well as legislation reported favorably by a bipartisan vote out of the Senate Budget Committee on July 25, 1990, and I prefer this approach. However,

it's time to stop splitting hairs and get this valuable tool to the President.

Currently, 43 States have, in one form or another, a line-item veto allowing the Chief Executive to limit legislative spending. As a former Governor who inherited a budget deficit in a poor State, I can testify that a line-item veto is invaluable in imposing fiscal restraint.

The fiscal problems of our Nation are well-known. We face annual deficits now approaching \$500 billion and a total debt of \$3.8 trillion. For years now, we have been toying with freezes, asset sales and sham summits, but the deficit and debt continue to grow.

Mr. President, the taxpayer, as well as the Congress, have grown weary of the smoke and mirrors and are past ready for a serious deficit reduction package. If ever there was a problem that needed to be attacked from every possible angle, it is this deficit. The President said in his State of the Union Address that he was willing to take the heat and make tough decisions with a line-item veto. Let's hold him to the commitment and make the line-item veto part of a deficit reduction measure.

Mr. BIDEN. Mr. President, I am a supporter of the line-item veto, one which is truly structured like a veto. I voted with Senator SASSER on the point of order made against the proposal by Senators COATS and MCCAIN because their approach is not a line-item veto, but a different creature called an enhanced rescission. The differences between the two approaches are important.

As I noted earlier, I shared the stated beliefs of the Attorney General that the President does not have the authority now to veto individual items in bills. Suggestions from some quarters that the President should simply assert this authority and spark a court battle is political mischief of the worst type.

So there should be agreement that legislative action is needed for the President to gain the authority to eliminate specific items in appropriations bills. A variety of proposals have been made in this area, ranging from a constitutional amendment to the enhanced rescission that was recently before the Senate.

A constitutional amendment is perhaps the most difficult approach to establish this authority and one that should be looked to only as a last resort. I believe we should first look to a statutory approach, which would be faster and, if properly structured, do no damage to the constitutional relationship between Congress and the Executive.

The amendment we voted on was a statutory approach, but flawed because it granted the President too much authority and veered away from a true veto response to congressional action. The McCain amendment would have allowed the President to reduce, not just eliminate specific items. With this authority, the President would be allowed to rewrite appropriations bills, a power that would dramatically alter our traditional system of checks and balances.

I have supported a 2-year trial of allowing the President to take specific items in an appropriations bill and veto them. Congress would be able to vote to override that veto. It is a much simpler approach that the enhanced rescission in the McCain-Coats amend-

ment. And if it proves to be a failure, as some fear, the authority could be allowed to lapse.

A statutory line-item veto will help restore responsibility to the Federal budget process. A line-item veto will help increase accountability on the part of the Congress and the President. Estimates of the savings that could result from a line-item veto differ, but they could add up to billions of dollars. It is no cure-all for deficits and debt, but it is a step in the right direction and one that I believe must be taken.

With deficits racing toward \$400 billion annually, the need for additional spending controls cannot be denied. But under the claim of fiscal responsibility, I cannot support an approach that would make such a dramatic shift in authority to the executive branch. I hope in the future we can develop a workable line-item veto.

Mr. McCONNELL. Mr. President, I rise today in support of the line-item veto. As a cosponsor, I believe that the Coats-McCain amendment will help Congress restore some fiscal responsibility to the budget process that is presently lacking. This amendment will force the Congress to justify all of its spending requests and, I truly believe will eliminate frivolous and wasteful spending by the Congress.

This legislation will not compromise the budget process, it will enhance it. The line-item veto enables the President, 20 days after the enactment of an appropriations bill, to identify wasteful and unnecessary spending items and to notify Congress of his intention to eliminate such items. The real punch of this proposal is to force this body to justify its spending priorities by voting to overturn the President's rescissions.

Mr. President, it is high time that Congress end its spending spree. The American people can no longer afford to pay for our fiscal irresponsibility.

Mr. President, it strikes me as odd that Congress has only a limited supply of tax dollars to draw from, yet Members insert an unlimited number of wasteful spending items. The General Accounting Office has estimated that some \$70 billion in unnecessary pork funding has been tucked away in appropriation bills between fiscal years 1984 and 1989. We have spent ourselves into a tremendous deficit, all in the name of good public policy. Mr. President, this level of deficit spending is not good public policy.

This legislation is long overdue. I urge my colleagues to support this common sense legislation.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, I thank the Chair. How much time do I have?

The PRESIDING OFFICER. The Senator from West Virginia has 10 minutes 7 seconds.

Mr. BYRD. Mr. President, I have just been asked by Mr. BUMPERS for 3 minutes. I yield 3 minutes to the distinguished Senator from Arkansas.

The PRESIDING OFFICER. The Senator from Arkansas is recognized for 3 minutes.

Mr. BUMPERS. Mr. President, I thank the distinguished Senator.

Mr. President, the line-item veto is very popular across the country. If you vote against the line-item veto, you do so at some political risk; we all know that. Yet I am not persuaded, and I will never be persuaded. On the contrary, I am convinced we would not be here today debating this issue at all if Jimmy Carter were President; if Bill Clinton were President, or if Fritz Mondale were President we would not be here debating the line-item veto.

I remember when President Reagan promised the people of this country he was going to balance the budget. All of a sudden, we have \$100 billion, \$200 billion, \$250 billion deficits; all of a sudden, he said, "If I only had the line-item veto." Then next, he said, "I cannot spend a dime. The Congress did not appropriate it."

I tell you, we could not have spent a dime in this country that did not have Ronald Reagan's, or George Bush's signature, on it either. The President has the veto. There is 4 trillion dollars' worth of indebtedness in this country, and Congress is culpable to some extent, but I promise Ronald Reagan and George Bush signed for every dime of it; their names are on every penny of it.

So, Mr. President, I am not persuaded at all on the constitutionality of the line-item veto. On the contrary, I think it is unconstitutional. Even if it were not, there is not any question that Congress would figure a way to circumvent it.

Finally, Mr. President, if I were seeking a \$15 million biotech startup project at the University of Arkansas, and let us say a Republican Senator has a project with a similar startup cost, we will say, in Texas, maybe Senator GRAMM, and the President is going through the bill. He is going to say we have to cut some money out of this budget. Who do you think is going to get vetoed? You do not have to be a rocket scientist to figure that out, do you?

Of course, the line-item veto is a massive transfer of power to the President of the United States, and people will stand up and wax eloquent on the floor of the U.S. Senate, saying: Oh, if we only had a line-item veto. Everybody here knows it will not make a dent in the budget deficit. It is all entitlements, defense, and so on.

People will walk down into the well of that Senate in the year 1992, and they will vote for billions for SDI; billions for the B-2 bomber; billions for the space station; billions for the super collider; \$30 billion to spy on the Soviet Union, which does not even exist anymore; and then go home and say: Oh, if we only had the line-item veto.

Mr. President, I do not enjoy standing up here and saying things that I know are unpopular with our own people in my home State. But I did not come here to abdicate my responsibilities to the Constitution or commonsensical Government.

I remember when Lyndon Johnson called Harry Byrd, Sr., into his office during the time the civil rights bill was being considered, and said, "McNamara wants to close that naval base down there in your State." And Senator Harry Byrd, Sr., could not wait to get back over here and vote for the civil rights bill.

I am not going to vote for this massive transfer of power.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. BYRD. Mr. President, what is driving the debt is in large measure something that the line-item veto will never touch; that

is, entitlements spending and mandatory spending. Yet, what this amendment is directed to is the appropriations bills.

If this amendment were to be adopted, the President would not be using the red pencil; faceless, nameless bureaucrats—unelected bureaucrats—would be using the red pencil.

Our friends on the other side who offer this amendment are asking the American people to give up a lot; namely, the most important power that the people have through their elected representatives. We ought to think a long time before we turn an elected President—unelected by the people; he is elected by electors who are elected by the people—turn an elected President into a king.

This measure would effectively strip the authorizing committees—indirectly, of course—of power, as well. The President could simply negate any authorized program by striking its funding. This is a sham argument, crafted to take the focus off the real problem. The real problem is the lack of political will on the part of the White House and the Congress to cut entitlements or raise taxes, or both, and really do something about the deficits.

A number of times, Senators have referred here to the occasion when President Reagan stood before a joint session and held up the conference report and slammed it down on the desk and talked about how big and how heavy it was. That was the State of the Union Address in January 1988.

President Reagan carried on a great deal about the size of that package. Well, why was it sent to him in one package? Because in the fall of 1987, after the stock market crash, Congress had entered into summit negotiations with the Reagan administration, and the administration then insisted that all appropriations measures—all of them—and the reconciliation measure be submitted to the President concurrently.

That is the way we did it. We put them all into one package. It was at the administration's own request.

But Mr. Reagan went on at great length about his desire for line-item veto authority, so that he could line out portions of the bill in these kinds of bills.

He went on to say that he would send to the Congress a list of items that he would delete from the appropriations portions of the 1987 summit agreement. Well, 2 months later, President Reagan sent such a list to Congress. I have the President's proposal here. It is printed as House Document No. 100-174.

Let me read the President's message:

To the Congress of the United States:

I ask the Congress to consider the rescission or repeal of the wasteful, unnecessary, or low priority spending projects that were included in the full-year fiscal 1988 Continuing Resolution (P.L. 100-202). These are the projects that, if I were able to exercise line-item veto authority, I would delete. They consist of Congressional directives and amendments concerning activities which are unnecessary and for which my Administration has not requested funds. It is my hope that the funds appropriated for these projects will not be spent as directed and can instead be spent on worthwhile projects or retained by the Treasury to lower the deficit. Accordingly, I am informally asking that the Congress review these projects, appropriations, and other provisions line by line and ei-

ther rescind or repeal them as soon as possible. I reserve the option of transmitting at a later date either formal rescission proposals or language that would make the funds available for more worthwhile purposes, for any or all of these items.

Since I assumed this office, the Congress has appropriated billions of dollars for questionable purposes, much of it in the context of massive spending bills passed in great haste that not even Congress had an adequate chance to evaluate. Because current law so severely restricts my ability to impound or not spend appropriated funds, I again appeal to the Congress to provide the Chief Executive with permanent line item veto authority. In the meantime, I urge your prompt attention to this request for legislative action in order to avoid these unnecessary expenditures of taxpayer dollars.

The details of these projects are set forth in the attached letter from the Director of the Office of Management and Budget.

Signed Ronald Reagan, White House, March 10, 1988.

Well, here they are. How much did they amount to? How much did this list of items amount to that the President said he would delete if he were given the line-item veto? \$969.6 million. It says Total Wasteful Items, \$969.6 million. That is a lot of money, to be sure. But in the context of Federal budgets that are in the nature of over \$1 trillion, \$969.6 million in budget authority is two-tenths of 1 percent of the 1988 total discretionary appropriations. There you are. That is what President Reagan would have deleted, because they were "wasteful items" in his words—two-tenths of 1 percent. That speaks for itself, Mr. President.

That should speak for itself as to how effective this so-called elixir of all of our budget problems would be. This is what the amendment's sponsors call "budget reform."

Mr. President, I ask unanimous consent that a table providing a summary of wasteful items earmarked in the fiscal year 1988 full-year continuing resolution be printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

SUMMARY OF WASTEFUL ITEMS EARMARKED IN THE FISCAL YEAR 1988 FULL-YEAR CONTINUING RESOLUTION (PUBLIC LAW 100-202)

[In millions of dollars]

Agency	Budget authority fiscal year 1988	Outlays fiscal year 1988	Total Federal project cost ¹
Candidates for rescission:			
Department of Agriculture	116.4	116.4	156.0
Department of Commerce	17.0	8.2	34.3
Department of Defense-Civil	49.4	33.3	1,971.7
Department of Education	6.4	0.6	14.1
Department of Energy	182.3	84.6	419.8
Department of Housing and Urban Development	1.0	.9	1.4
Department of the Interior	7.4	1.5	7.4
Department of Justice	2.0	.2	2.0
Department of Transportation	85.2	17.1	786.1
Department of the Treasury	8.4	8.3	8.4
General Services Administration	19.0	20.0	20.0
Other Independent Agencies	45.0	45.0	45.0
Subtotal, candidates for rescission	539.5	336.1	3,466.2

**SUMMARY OF WASTEFUL ITEMS EARMARKED IN THE FISCAL YEAR 1988 FULL-YEAR CONTINUING
RESOLUTION (PUBLIC LAW 100-202)—Continued**

[In millions of dollars]

Agency	Budget authority fiscal year 1988	Outlays fiscal year 1988	Total Federal project cost ¹
Candidates for repeal or amendment:			
Department of Agriculture	4.0	4.0	152.0
Department of Commerce	1.7	.2	1.7
Department of Defense-Military	252.2	155.0	252.2
Department of Education	4.3	2.0	4.3
Department of Health and Human Services		1.0	46.0
Department of Housing and Urban Development	6.0	6.0	6.0
Department of the Interior	4.9	4.1	4.9
Department of Transportation			119.2
Department of the Treasury	135.0	132.0	135.0
Small Business Administration	5.0	85.0	85.0
Other Independent Agencies	17.0	13.8	17.0
Subtotal, candidates for repeal or amendment	430.1	403.1	823.3
Loan asset sales:			
Department of Housing and Urban Development		158.0	
Small Business Administration		643	
Subtotal, loan asset sales		801.0	
Total:			
Department of Agriculture	120.4	120.4	308.0
Department of Commerce	18.7	8.4	36.0
Department of Defense-Military	252.2	155.0	252.2
Department of Defense-Civil	49.4	33.3	1,971.7
Department of Education	10.7	2.6	18.4
Department of Energy	182.3	84.6	419.8
Department of Health and Human Services		1.0	46.0
Department of Housing and Urban Development	7.0	164.9	7.4
Department of the Interior	12.3	5.6	12.3
Department of Justice	2.0	.2	2.0
Department of Transportation	85.2	17.1	905.3
Department of the Treasury	143.4	140.3	143.4
General Services Administration	19.0	20.0	20.0
Small Business Administration	5.0	728.0	85.0
Other Independent Agencies	62.0	58.8	62.0
Total, wasteful items	969.6	1,540.2	² 4,289.5

¹ Includes both funded and unfunded portions.

² In addition, the closing of small post offices would, if the prohibition were repealed, result in savings to the public in fiscal year 1988 of \$15,000,000. This would increase to an annual savings of \$240,000,000 in 20 years.

Mr. BYRD. Mr. President, I thank my colleagues on the opposing side for their courtesies, as well. They have put up a good fight, and I respect them for their viewpoints. I hope that the Senate will resoundingly defeat the motion to waive the Budget Act.

The PRESIDING OFFICER. The question now is on agreeing to the motion offered by the Senator from Arizona to waive section 306 of the Budget Act.

The yeas and nays have been ordered.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Iowa [Mr. HARKIN] and the Senator from Nebraska [Mr. KERREY] are necessarily absent.

The PRESIDING OFFICER (Mr. DODD). Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 44, nays 54, as follows:

[Rollcall Vote No. 33 Leg.]

YEAS—44

Bond	Gorton	Nickles
Boren	Graham	Packwood
Brown	Gramm	Pressler
Burns	Grassley	Robb
Chafee	Hatch	Roth
Coats	Helms	Seymour
Conrad	Hollings	Shelby
Craig	Kassebaum	Simpson
D'Amato	Kasten	Smith
Danforth	Lott	Specter
Daschle	Lugar	Symms
Dole	Mack	Thurmond
Domenici	McCain	Wallop
Exon	McConnell	Warner
Garn	Murkowski	

NAYS—54

Adams	Durenberger	Mikulski
Akaka	Ford	Mitchell
Baucus	Fowler	Moynihan
Bentsen	Glenn	Nunn
Biden	Gore	Pell
Bingaman	Hatfield	Pryor
Bradley	Heflin	Reid
Breaux	Inouye	Riegle
Bryan	Jeffords	Rockefeller
Bumpers	Johnston	Rudman
Burdick	Kennedy	Sanford
Byrd	Kerrey	Sarbanes
Cochran	Kohl	Sasser
Cohen	Lautenberg	Simon
Cranston	Leahy	Stevens
DeConcini	Levin	Wellstone
Dixon	Lieberman	Wirth
Dodd	Metzenbaum	Wofford

NOT VOTING—2

Harkin

Kerrey

The PRESIDING OFFICER. On this question, the yeas are 44, the nays are 54. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

Mr. BYRD. Mr. President, I move to reconsider the vote.

Mr. METZENBAUM. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The motion to waive the point of order made by the Senator from Tennessee, [Mr. SASSER] having failed, the Chair now rules on the point of order.

The amendment by the Senator from Arizona affects title X of the Budget Act and the process by which the budget authority may be rescinded. This is a matter within the jurisdiction of the Budget Committee proposed to a bill not reported by that committee. Therefore, the amendment violates section 306 of the Budget Act. The point of order is well taken. The amendment falls.

The Senator from West Virginia.

Mr. BYRD. Mr. President, I thank all Senators who voted against the motion to waive the Budget Act.

Mr. President, there has been some considerable amount of discussion in the press and here on the floor to the effect that the President ought to go ahead and exercise a line-item veto.

Mr. President, I hope that the President will not be led into that thicket of confrontation. The vote here, I think, today, expresses the view of the Senate. There is too much confrontation already between the executive and the legislative branches. And I hope that the President will not be persuaded by hotheads to just go ahead, exercise the line-item veto, and have a court test.

Well, he can do that. But what we need is less confrontation, Mr. President, between the White House and the Congress—less confrontation. If the President were to make this attempt, it would ensure a good deal of bitter confrontation. God help the Nation if that should ever be done and if the court should uphold the President. I do not believe that a court in its right mind would ever do that.

I yield to the distinguished Senator from Delaware.

Mr. BIDEN. Mr. President, I would like to compliment the Senator from West Virginia on the work he has done in the last 24 hours. And on the point he has just raised, note for him what maybe a number of Members on the floor do not know.

The present Attorney General, whom I think is a fine man and is a first-class Attorney General and a man of great integrity, when, before the Judiciary Committee, for his confirmation hearing, volunteered to make the point that he was not unwilling to take stands on controversial issues and he was his own man, volunteered—and I am paraphrasing—that he had done a great deal of work on the issue of whether there was an inherent line-item veto right that the President presently has, as the Constitution is presently drafted. And he said he is not only certain he does not, but that he feels very strongly that he does not, based on his research.

So I would hope that the President, if he is considering what some of his political advisers apparently have suggested to him to test this, that he go to his chief law enforcement officer, the man in which he said he has allowed to reside the greatest amount of confidence on matters of legal weight and importance, and ask his Attorney General, the Justice Department, for a judgment.

I am confident that if he does, that the Attorney General will respond as the honorable man that he is, exactly how he did in the committee—that there is no such inherent right in the Constitution presently possessed by the President.

I thank the Senator from West Virginia for both his comments and for yielding.

Mr. BYRD. Mr. President, I thank the distinguished Senator from Delaware, chairman of the Judiciary Committee. I did not know about the statement that the distinguished Senator has just alluded to. I am reassured greatly upon hearing of that statement. And I am all the more pleased that I voted for the confirmation of the Attorney General.

Mr. President, I yield the floor.

Mr. SHELBY. Mr. President, I ask unanimous consent to proceed as in morning business for 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Alabama is recognized.

(The remarks of Mr. SHELBY pertaining to the introduction of S. 2278 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

April 30, 1992

[From the Congressional Record pages S5882-5884]

THE CRS EVALUATION OF THE GAO LINE-ITEM VETO REPORT

Mr. BYRD. Mr. President, last January, the General Accounting Office issued an unsolicited report entitled, "Line Item Veto—Estimating Potential Savings," which made exaggerated claims of the budgetary savings that would have occurred if President Reagan had had line-item veto authority for fiscal years 1984 through 1989. On March 17, I asked the Congressional Research Service to evaluate the GAO report, and on March 23, the CRS responded with a detailed analysis.

The Congressional Research Service found such serious flaws in the GAO report as to invalidate its results. In summary, CRS said:

"We believe that a more realistic and more useful estimate of savings would be \$2-3 billion over a six-year period and probably less. The following considerations lead us to the more modest figure for savings from an item veto. The report reaches the \$70 billion figure by making a series of assumptions that inflate the estimated savings: (1) accepting SAPs prepared early in the process as a reliable guide to what happens later when Presidents receive appropriations bills, (2) giving Congress no credit for deleting items through the alternative rescission process, (3) double-counting program terminations, (4) assuming that a one-time "saving" from an item veto is not used elsewhere for another program or activity, (5) ignoring presidential use of item-veto authority to promote executive spending initiatives, (6) giving inadequate attention to the modest record of item-veto savings at the state level, and (7) assuming that Congress never overrides an item veto (pages 4 and 7)."

Estimated line-item veto savings of \$2-\$3 billion over 6 years works out to between \$333 and \$500 million a year. Such savings would amount to between two and three one-hundredths of 1 percent of Federal outlays.

The most fundamental flaw, among the seven found by CRS, was the use of selected OMB Statements of Administration Policy [SAP's] as the basis for estimating potential line-item veto savings. GAO chose SAP's reacting to House and Senate Appropriations Committee actions, and not later SAP's sent just prior to House-Senate conferences, because they maximized the potential savings. As GAO noted, those later SAP's are usually much smaller than the earlier ones. CRS found that:

"To be precise, SAP-based estimates overstate savings by a factor of 23 for 1988. If that ratio is applied to the six-year period, likely savings drop from \$70.6 billion to \$3.03 billion.

"Curiously, the report 'judged that SAPs are a reasonable indicator of the maximum savings that might have been achieved if a President had used line item veto authority in the period we studied' (p. 9). From its own analysis, SAPs appear to be an unreasonable indicator, unless they are used solely for the purpose of estimating 'maximum' savings rather than likely savings. Also on page 9, the report states that 'it is impossible to determine conclusively whether or not the SAP-based estimates developed for this report accurately reflect the way a President who had actually had line item veto authority in the period 1984 through 1989 would have used that authority.' If the analysis is that difficult to prove conclusively, why release a report that gives readers the impression that \$70 billion could have been saved over a six-year period?"

Why indeed, Mr. President? CRS finds that GAO estimate to be unfounded in the extreme, so I caution those who may read the GAO study to avoid leaping to the same conclusions as GAO has.

I ask unanimous consent that my letter and the CRS analysis be entered into the RECORD at the conclusion of my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CONGRESSIONAL RESEARCH SERVICE,
Washington, DC, March 23, 1992.

To: Senator Robert C. Byrd, Chairman, Senate Committee on Appropriations.

From: Louis Fisher, Senior Specialist in Separation of Powers.

Subject: GAO's report on "Line Item Veto" (January 1992).

This memorandum responds to your letter of March 17, requesting us to evaluate a General Accounting Office report entitled "Line Item Veto—Estimating Potential Savings" (January 1992).

The report estimates that a presidential line item veto, applied to fiscal years 1984 through 1989, could have saved \$70 billion over the 6-year period. The report's methodology rests primarily on an examination of Statements of Administration Policy (SAPs) that OMB provides to Congress, stating administration objections to specific items in appropriations bills being considered.

As indicated in the title and explained in the text, the report was intended to discover the maximum possible savings that could be achieved through an item veto. As noted on page 3: "The objectives of this study were to estimate the maximum savings likely" And on page 14: "In all cases, we tried to give the benefit of the doubt to the President; that is, we used the broadest possible interpretation of SAP items to show the maximum possible savings estimates."

We believe that a more realistic and more useful estimate of savings would be \$2-3 billion over the six-year period and probably less. The following considerations lead us to the more modest figure for savings from an item veto. The report reaches the \$70 billion figure by making a series of assumptions that inflate the estimated savings: (1) accepting SAPs prepared early in the process as a reliable guide to what happens later when Presidents receive appropriations bills, (2) giving Congress no credit for deleting items through the alternative rescission process, (3) double-counting program terminations, (4) assuming that a one-time "saving" from an

item veto is not used elsewhere for another program or activity, (5) ignoring presidential use of item-veto authority to promote executive spending initiatives, (6) giving inadequate attention to the modest record of item-veto savings at the state level, and (7) assuming that Congress never overrides an item veto (pages 4 and 7).

1. Use of SAPs. The \$70 billion estimate results primarily from the way the report relies on SAPs. The report assumes that the President "would have used line item authority successfully to reject each and every specific item to which objections were raised in the SAPs" (p. 4). The report selected a SAP reacting to a House appropriations action and a SAP reacting to a Senate appropriations action for each of the appropriations bills. However, the report did not use SAPs "sent just prior to House-Senate conferences" (p. 14). Had it done so, estimated savings would have been less. As the report explains, SAPs sent just prior to House-Senate conferences are not "as inclusive as SAPs sent earlier in the process. The administration sometimes 'gives up' on objectionable items that will not be affected by conference action and dwells only on those which can still be altered (so-called 'conferenceable' items)" (p. 14). The selection of early SAPs inflates potential savings from an item veto.

SAPs are not a reliable guide to what Presidents might item veto. As appropriations bills move through the legislative process, the President's position on specific items shifts in many cases from a firm No to an accommodation. In the end, what counts are not the SAPs produced when a bill clears a committee or passes one of the chambers. The crucial point is the President's position when a bill is in conference. At that stage, the administration hangs tough on some items and acquiesces on others. As the report later states, "the SAP-based estimates might have overstated the potential savings from a presidential line item veto. For example, a President might have chosen not to exercise the veto on all items to which objections were raised in the SAPs" (p. 8).

2. Theoretical vs. Realistic Savings. The report estimates savings that "might have occurred" or spending that "could have been reduced" (p. 1). This choice of "might" and "could" tilts the analysis toward the maximum highest number. Available data clearly indicates that a \$70 billion saving over a six-year period is unrealistic. The report acknowledges that other administration documents reveal that an analysis based on SAPs "may overstate the savings that would have occurred" (p. 2). There is a substantial difference in moving from might/could (theoretically possible) to would (likely to occur).

The report notes that an OMB report in 1988 "indicated that the President would have vetoed much smaller amounts than those the SAPs identified as objectionable for that year" (p. 2). The OMB report is a valuable guide to what Presidents are likely to do with item-veto authority. The SAP-based estimate of line item veto savings for 1988 is \$12.6 billion in budget authority. The OMB report identified only \$540 million in potential savings from item vetoes (p. 9). The GAO study admits that the SAP-based estimates "may overstate" the potential savings from a line item veto (p. 9).

To be precise, SAP-based estimates overstate savings by a factor of 23 for 1988. If that ratio is applied to the six-year period, likely savings drop from \$70.6 billion to \$3.03 billion.

Curiously, the report "judged that the SAPs are a reasonable indicator of the maximum savings that might have been achieved if a President had used line item veto authority in the period we studied" (p. 9). From its own analysis, SAPs appear to be an *unreasonable* indicator, unless they are used solely for the purpose of estimating "maximum" savings rather than likely savings. Also on page 9, the report states that "it is impossible to determine conclusively whether or not the SAP-based estimates developed for this report accurately reflect the way a President who had actually had line item veto authority in the period 1984 through 1989 would have used that authority." If the analysis is that difficult to prove conclusively, why release a report that gives readers the impression that \$70 billion could have been saved over a six-year period?

3. Double-counting (rescissions). Even a figure of \$3 billion over the six-year period probably overstates what might have been saved through an item veto. The report does not deduct from its \$70 billion estimate the savings that result from the President's current authority to rescind appropriations. For the years in question, President Reagan asked Congress to rescind \$18.6 billion from fiscal years 1984 through 1989. Congress rescinded \$0.4 billion. However, over that same period of time, Congress initiated and enacted 144 rescission actions totaling \$24 billion. It can be assumed that some of the items rescinded appeared earlier in SAPs. The report therefore credits the item veto for some savings that were achieved by existing rescission procedures.

The potential of rescission authority for deleting appropriations items is borne out by the first three years of the Reagan administration. From fiscal 1981 through fiscal 1983, President Reagan proposed \$24.8 billion in rescissions and Congress approved \$16.1 billion. In addition to rescissions proposed by the President, Congress has initiated and enacted a total of \$36.2 billion in rescissions since the Budget Act of 1974.

4. Double-counting (Program Terminations). The report estimates that 71 federal programs would have been terminated with an item veto, including the Economic Development Administration, Legal Services Corporation, and Amtrak. Those programs were "repeatedly proposed" for termination in SAPs during that period (page 8). To the extent that programs were recommended for termination in more than one of the six years of SAPs, did the report rely on double-counting?

If the President had item-vetoed Amtrak in fiscal 1984 and Congress failed to override, it might be proper to credit the President with \$716.4 million in savings for that year. But is it proper to credit the President with savings for the next five years (fiscal 1985 through fiscal 1989)? Suppose the President recommended no funds for Amtrak in his fiscal 1985 budget, Congress inserted the money against his wishes, the President item vetoed that amount and Congress failed to override. Again the President is credited with savings for fiscal 1985. Will that scenario be repeated for the next four years? It is reasonable to assume that Congress will always reintroduce funds for programs that had been terminated?

That assumption seems unreasonable. Operating under that assumption, a President receives credit for a savings in one year, no matter how long ago, and receives perpetual credit thereafter. According to that scenario, a President could terminate a program in 1812 and receive credit every year after that.

It is not even clear that the President should be credited with \$716.4 million in savings for the first year. In terminating an agency like Amtrak, are there no termination costs for outstanding contracts and severance pay for agency personnel? Can those costs be absorbed by the previous appropriation or will supplemental appropriations be needed for the phase-out? In case of an agency like the Economic Development Administration, if it is legally impossible to fire all of the employees, will other agencies be required to absorb these people? Because of these considerations, net savings will be less than the report indicates.

5. Assuming that "Savings" are Permanent. The report assumes that each presidential saving, obtained through the item veto, is permanent and will remain untouched by other governmental pressures. That assumption is contradicted by the experience of the budget process. Under Section 302(b) of the Budget Act of 1974, Congress allocates ceilings to the appropriations subcommittees. It is well-known that if the subcommittees report a bill substantially under the allocation, it invites amendments on the floor that bring the aggregate back toward the ceiling. Thus, a "savings" by the subcommittee is quite temporary and is unlikely to last.

Why assume that "savings" from a presidential item veto will be any more permanent? It is more likely that a successful item veto (say of Amtrak in the above example) will unleash spending proposals by the executive and legislative branches. The savings might be transitory, quickly neutralized by a spending initiative in a forthcoming supplemental appropriations bill.

6. Presidential Spending Initiatives. The figure of \$3 billion also overstates savings because the study assumes that Presidents are interested only in reduced federal expenditures. Yet Presidents have their own programs and activities that they advocate, and the availability of an item veto could be an important weapon in coercing legislators to support White House spending priorities. Armed with an item veto, a President could tell legislators that a project or program in their district or state will be item-vetoed unless they support the President's spending goals. If the legislators and the President reach an amicable agreement, legislative add-ons would be preserved along with presidential add-ons. Since these interbranch conversations would likely remain confidential, the public would never know that the item veto can increase federal spending. A balanced assessment of the item veto must take into account this dynamic in executive-legislative relations.

7. Studies at the State Level. Appendix III of the report summarizes the studies at the state level that estimate spending reductions from an item veto. The report states that this literature "exhibits no apparent consensus" on the budgetary impact of an item veto, and yet the consensus in Appendix III seems clearly that the item veto yields no fiscal restraint. Of the eight studies summarized, *seven* conclude that the item veto is not a tool for fiscal restraint. Instead, it is used primarily to advance partisan interests

and executive spending programs. The only study that is optimistic about potential savings from an item veto was coauthored by James C. Miller III, who served as OMB Director in the Reagan administration. These studies should have cautioned against announcing a \$70 billion federal saving over a six-year period.

U.S. SENATE,
COMMITTEE ON APPROPRIATIONS,
Washington, DC, March 17, 1992.

Mr. JOSEPH ROSS,
*Director, Congressional Research Service, the Library of Congress,
Washington, DC.*

DEAR MR. ROSS: This is to request that the Congressional Research Service provide an evaluation of a recent General Accounting Office report entitled "Line Item Veto—Estimating Potential Savings". I have enclosed a copy of this report and a subsequent letter that I sent to the General Accounting Office expressing my concerns about the report, to which I have not yet received a reply.

If you have any questions regarding this request, please do not hesitate to contact me or Jim English, Staff Director of the Appropriations Committee, at 224-7200.

With kind regards, I am
Sincerely,

ROBERT C. BYRD,
Chairman.

STATEMENT ON CBO'S LETTER RESPONDING TO SENATOR BYRD'S CONCERNS ABOUT THE CBO STUDY ON REDUCED DEFENSE SPENDING

Mr. BYRD. Mr. President, last February, the Congressional Budget Office released a study, entitled "The Economic Effects of Reduced Defense Spending," which omitted several important points. I raised these points with the CBO Director, Dr. Robert D. Reischauer, in a letter on March 9. On March 17, Dr. Reischauer responded to my concerns promptly and forthrightly, for which I commend him.

The study estimated the economic impact of two hypothetical defense spending reductions. It concluded that real GNP would rise permanently by the end of the next decade by about \$50 billion a year, in 1992 dollars, if defense spending were cut 20 percent by fiscal 1997. However, in the short run, it estimated the loss of 600,000 defense related jobs and described worst case scenarios for three selected communities heavily dependent upon defense industry.

My letter of March 9 listed several concerns. First, the study ignored the expressed intent of the Budget Enforcement Act of 1990 by assuming future defense spending reductions will be used for deficit reduction. The act allows defense spending reductions in fiscal year 1994 and fiscal year 1995 to be used for domestic discretionary spending, as long as the overall spending caps are met.

Second, the study lumps together defense spending reductions enacted in fiscal years 1991 and 1992 with the reductions under consideration now for fiscal years 1993 through 1997. This gives

the appearance of larger economic impact than would result from the reductions in fiscal years 1993 through 1997 alone.

Third, the study ignores already enacted programs which will ease the economic impact of defense spending reductions. As noted in a February 6, 1992, Congressional Research Service Issue Brief, "Defense Budget Cuts and the Economy," economic adjustment assistance programs already in existence under present law include: over half a billion dollars each year set aside specifically to help military and defense workers through the Economic Dislocation and Worker Adjustment Assistance [EDWAA] Program; job training under title III of the Job Training Partnership Act; unemployment insurance; and support for impacted communities under title IX of the Public Works and Economic Development Act of 1965, including \$50 million appropriated under the Defense Authorization and Appropriations Acts of 1991.

Fourth, the study could better explain that most defense workers threatened with job loss will switch to civilian production, retrain, or retire without entering the ranks of the long-term unemployed.

Fifth, and finally, the study takes a worst case look at defense spending reductions without considering a best case.

In his response to my concerns, Dr. Reischauer agreed that, even though the CBO study assumed defense reductions would be used for deficit reduction, defense spending reductions may be used for domestic discretionary spending in fiscal year 1994 and fiscal year 1995. In fact, he observed that the defense savings contemplated in the CBO study "would be required simply to avoid real reductions in nondefense discretionary spending." He added, "In the long run, increased spending on carefully chosen public investment projects would work to increase the potential growth of the economy in just the same way as a reduction in the Federal deficit." " * * * on average, public investments in the past do seem to have been as worthwhile as private investments. * * * "

Dr. Reischauer also said that CBO "should have acknowledged existing Federal programs aimed at mitigating the effects of defense cutbacks and provided more discussion of other actions that could be taken to mitigate the effects of defense spending cutbacks." He reiterated the study's finding that "growth in nondefense jobs would eventually offset the adverse effects of defense cutbacks." Finally, Dr. Reischauer noted that "the study clearly acknowledged that the calculations reflected a worst-case assessment. * * * "

I thank Dr. Reischauer for his timely response. His letter casts the CBO study in a more balanced light, and I commend it to my colleagues for their consideration.

I ask unanimous consent that this correspondence be entered into the RECORD, so that my colleagues and other interested readers might be better informed about this study.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

CONGRESSIONAL BUDGET OFFICE,
Washington, DC, March 17, 1992.

Hon. ROBERT C. BYRD,
*Chairman, Committee on Appropriations,
U.S. Senate, Washington, DC.*

DEAR MR. CHAIRMAN: Your recent letter noted that several topics of interest and concern to you were omitted from our February 1992 study entitled, "The Economic Effects of Reduced Defense Spending." Overall, I believe the study represented a balanced response to the Minority Leader's request. But, as you suggest, several aspects of the analysis could have been explained more fully.

The study focused on the economic effects associated with cutting defense spending and using the savings to reduce the federal deficit. The peace dividend could, of course, be put to other uses. As you note, under the provisions of the current Budget Enforcement Act [BEA], defense cuts in 1994 and 1995 can be devoted to augmenting nondefense discretionary spending, including spending on public investment, so long as overall limits on discretionary spending are met. Our study discussed the effects of devoting the peace dividend to public investment in general terms, but did not analyze those effects in detail.

We chose this focus because the size of the defense options analyzed in our study seemed consistent with the overall spending limits in the BEA. The BEA requires rather substantial reductions in total federal discretionary spending, particularly in 1994 and 1995. Compared with 1992 levels, the real cuts in defense spending discussed in our study are no larger in 1994 and 1995 than the overall cuts in discretionary spending mandated in the BEA. Thus, the defense savings analyzed in our study would be required simply to avoid real reductions in nondefense discretionary spending. This reasoning was not adequately explained in the study, however, and therefore your criticism is well taken.

Leaving aside issues of compliance with the BEA limits, how would devoting the peace dividend to public investments affect the economy? In the long run, increased spending on carefully-chosen public investment projects would work to increase the potential growth of the economy in just the same way as a reduction in the federal deficit, as we stated in our report (see page 6). In the short run, devoting defense spending cuts to public investment might avoid the temporary GNP loss that is likely to occur if the deficit is cut. Whether this favorable short-run outcome could be achieved depends on how quickly governments could arrange to spend additional funds on investment projects, as those funds are withdrawn from the defense sector.

The favorable long-run effects of investment spending also depend on how carefully projects are chosen. Additions to the already extensive infrastructure of roads, rivers, and airports, for example, are not likely to have such a favorable payoff as those undertaken in the past, and some may not easily pass a careful cost-benefit analysis. And some investments, such as additional federal spending on education, may prove worthwhile in the long run but take a long time to yield benefits. But on average, public investments in the past do seem to have been as worthwhile as private invest-

ments, and with sufficient care, could continue to contribute to productivity growth.

You also expressed concern that the estimates in our study included job losses associated with cuts enacted in 1990 and 1991, rather than focusing on the losses associated with the cut that may be enacted for fiscal 1993. At the time the detailed computer simulations used in the study were completed, 1991 was the latest year for which enacted appropriations were available. Thus, we used that year as a base. If you wish, we would be glad to update our macroeconomic analyses for you.

Finally, you note several changes that could have been made in our study that might have resulted in a less gloomy short-run picture. These changes include more mention of federal programs to alleviate the impact of defense cutbacks on local economies, better explanation of the ability of defense workers to switch to civilian jobs, and less emphasis on worst-case analyses of local area impacts.

The best solution for a displaced defense worker is a new job, and our study emphasized that growth in nondefense jobs would eventually offset the adverse effects of defense cutbacks. Indeed, we argued that defense spending cuts could eventually benefit the economy. Thus, I think we did emphasize that displaced defense workers could be absorbed into the civilian sector. As you note, our analyses of local-area effects began with a worst-case assessment. Such an assessment is analytically feasible and suggests the magnitude of the short-term problems facing local communities after a major base closes or defense companies scale back production. But the study clearly acknowledged that the calculations reflected a worst-case assessment and noted factors that might ameliorate short-term problems (see pages 33 and 41). In addition, our study was generally positive about the long-term prospects for recovery in communities affected by defense cuts.

These points notwithstanding, I understand the concern in the Congress about the job losses associated with defense spending cutbacks, particularly in a period of recession. I accept your point that we should have acknowledged existing federal programs aimed at mitigating the effects of defense cutbacks and provided more discussion of other actions that could be taken to mitigate the effects of defense spending cutbacks.

I appreciate constructive criticism of the sort that you offered. It helps to improve the quality and clarity of our analysis. I hope my response is an adequate explanation of our reasoning and provides some additional information. If I can be of further assistance, please let me know.

Sincerely,

ROBERT D. REISCHAUER, *Director*.

U.S. SENATE,
COMMITTEE ON APPROPRIATIONS,
Washington, DC, March 9, 1992.

Dr. ROBERT D. REISCHAUER,
Director, Congressional Budget Office, Washington, DC.

DEAR DR. REISCHAUER: Recently, the Congressional Budget Office published a study, "The Economic Effects of Reduced Defense Spending." Some key areas in which I have interest and concern were omitted from your analysis.

First, the study assumes that all future defense spending reductions will be devoted to deficit reduction. Rather, for fiscal 1994 and 1995, Congress will determine the allocation of defense and other discretionary funds under one spending cap. Beyond fiscal 1995, there is no cap at all. Therefore, your assumption regarding the use of defense reductions is just that—an assumption. That fact makes it impossible for you to predict with any certainty the economic effects. This assumption puts other uses of the defense reduction, like public investment, at a disadvantage in future debate.

Second, the study lumps together defense reductions enacted in 1990 and 1991 with those which may be enacted this year. No analysis is presented of the potential job loss attributable to just the defense reduction which may be enacted for fiscal 1993.

Third, the study makes no mention of the previously enacted federal programs to alleviate the impact of defense reductions upon local economies. Aside from unemployment benefits, dislocated defense workers qualify for job training under Title III of the Job Training Partnership Act (JTPA), as amended by the Omnibus Trade and Competitiveness Act of 1988. The fiscal 1991 Defense Authorization and Appropriations Acts (P.L. 101-510 and P.L. 101-511) provided \$150 million of adjustment assistance under JTPA for the Department of Defense. These Acts also provided \$50 million specifically for funding Title IX assistance to communities impacted by defense cuts under the Public Works and Economic Development Act of 1965. The Office of Economic Adjustment within the Defense Department and the President's Economic Adjustment Committee will both help minimize economic dislocation from defense reductions.

Fourth, the study could better explain that most threatened defense workers will switch to civilian production, retrain, or retire without entering the ranks of the long-term unemployed. This country experienced far larger defense cutbacks following World War II, Korea, and Vietnam. Much could be learned from the success we had in transforming our economy following those conflicts, but the report makes no mention of this.

Fifth and finally, certain parts of the study "represent a worst case." When analyzing uncertain future economic events in response to defense reductions, the results would be more fairly presented if they were accompanied by a sensitivity analysis which also assumes a "best case." By focusing on three local economies, the study gives the impression of devastating impact despite statements to the effect that the nationwide effect is small.

I would like to have your views on these points as soon as possible.

Sincerely,

ROBERT C. BYRD, *Chairman.*

[From the Congress Daily page 3 September 18, 1992]

BUDGET—BOWSHER APOLOGIZES TO BYRD FOR GAO REPORT

Comptroller General Charles Bowsher has apologized to Senate Appropriations Chairman Byrd for a line-item veto report issued earlier this year that Byrd characterized Thursday as a "piece of trash." Byrd said Bowsher had written him a letter "taking a different position" on the line-item veto than the GAO had taken earlier this year in an unsolicited report, "Line Item Veto: Estimating Potential Savings." Byrd's office Thursday released the exchange of letters between Byrd and Bowsher earlier this year regarding the report.

The Byrd letter, dated March 2, criticized GAO for doing an unsolicited report, failing to confer with Byrd before issuing it and reaching conclusions Byrd said were unfounded. The report contended that, had the line-item veto been used between 1984-89 and had the president vetoed all items the OMB's "Statement of Administration Policy" found objectionable, six-year savings could have reached \$70 billion. But the GAO report acknowledged that the president might not have vetoed all objectionable items and that Congress might have overridden some vetoes. "Armed with this knowledge, the GAO should have concluded that it was not possible to issue a report that could state with any certainty what amounts of appropriations would have been line-item vetoed," Byrd wrote, adding, "In all my years in Congress, this is the weakest report that I have seen from the [GAO]."

Bowsher's reply to Byrd, dated July 23, said that was "now apparent that we were not sufficiently clear about the purpose of the report or what we judged to be its implications." Bowsher acknowledged that actual savings could have been "close to zero"—instead of \$70 billion—and that "one can conceive of [a] situation in which the net of [line-]item veto power would be to increase spending."

He said the GAO was trying to show "theoretical maximum savings," not likely actual savings. "We regret the inappropriate highlighting of the \$70 billion total amount * * * which undoubtedly contributed to a misleading impression of the purpose and import of our analysis," Bowsher wrote.

Rescission and Line-Item Veto Legislation In the 103d Congress

Sponsor	Bill No.	Short Title	Full Title	Record Citation	Action Taken
<i>Pending Before the Senate Budget Committee</i>					
McCain	S. 9	Legislative Line Item Veto Act of 1993	A bill to grant the power to the President to reduce budget authority	139 CONG. REC. S338-40 (daily ed. Jan. 21, 1993)	Jan. 21, 1993: Referred to the Senate Committee on the Budget and the Senate Committee on Governmental Affairs pursuant to the order of August 4, 1977
Exon	S. 224	Enhanced Rescissions Act of 1993	A bill to amend the Congressional Budget and Impoundment Control Act of 1974 to grant the President enhanced authority to rescind amounts of budget authority	139 CONG. REC. S754, S796-98 (daily ed. Jan. 27, 1993)	Jan. 27, 1993: Referred to the Senate Committee on the Budget and the Senate Committee on Governmental Affairs pursuant to the order of August 4, 1977
Krueger	S. 437	Expedited Consideration of Proposed Rescissions Act of 1993	A bill to amend the Congressional Budget and Impoundment Control Act of 1974 to establish procedures for the expedited consideration by the Congress of certain proposals by the President to rescind amounts of budget authority	139 CONG. REC. S2089-91 (daily ed. Feb. 25, 1993)	Feb. 25, 1993: Referred to the Senate Committee on the Budget and the Senate Committee on Governmental Affairs pursuant to the order of August 4, 1977
Craig	S. 690	Modified Line Item Veto/Expedited Rescissions Act of 1993	A bill to amend the Congressional Budget Control and Impoundment Act of 1974 to establish procedures for the expedited consideration by the Congress of certain proposals by the President to rescind amounts of budget authority	139 CONG. REC. S4270-73 (daily ed. Apr. 1, 1993)	Apr. 1, 1993: Referred to the Senate Committee on the Budget and the Senate Committee on Governmental Affairs pursuant to the order of August 4, 1977

Rescission and Line-Item Veto Legislation

In the 103d Congress

Sponsor	Bill No.	Short Title	Full Title	Record Citation	Action Taken
Cohen	S. 740	Expedited Consideration of Proposed Rescissions Act of 1993	A bill to amend the Congressional Budget and Impoundment Control Act of 1974 to provide for the expedited consideration of certain proposed rescissions of budget authority and certain tax expenditure repeals	139 CONG. REC. S4399-400, S4407-08 (daily ed. Apr. 2, 1993)	Apr. 2, 1993: Referred to the Senate Committee on the Budget and the Senate Committee on Governmental Affairs pursuant to the order of August 4, 1977
Lott	S. 1955	Budget Process Reform Act	A bill to amend the Congressional Budget and Impoundment Control Act of 1974 to reform the budget process, and for other purposes	140 CONG. REC. S3446-53 (daily ed. Mar. 22, 1994)	Mar. 22, 1994: Referred to the Senate Committee on the Budget and the Senate Committee on Governmental Affairs pursuant to the order of August 4, 1977
Craig	S. 2458	Common Cents Budget Reform Act of 1994	A bill to reform the concept of baseline budgeting, set forth strengthened procedures for the consideration of rescissions, provide a mechanism for dedicating savings from spending cuts to deficit reduction, and to ensure that only one emergency is included in any bill containing an emergency designation	140 CONG. REC. S13,302-08 (daily ed. Sept. 23, 1994)	Sept. 23, 1994: Referred to the Senate Committee on the Budget and the Senate Committee on Governmental Affairs pursuant to the order of August 4, 1977

Rescission and Line-Item Veto Legislation In the 103d Congress

Sponsor	Bill No.	Short Title	Full Title	Record Citation	Action Taken
Spratt	H.R. 1578	Expedited Rescissions Act of 1993	A bill to amend the Congressional Budget and Impoundment Control Act of 1974 to provide for the expedited consideration of certain proposed rescissions of budget authority	139 CONG. REC. H1856, D335-36 (daily ed. Apr. 1, 1993); <i>id.</i> at H2067-78, H2084-104 (daily ed. Apr. 28, 1993); <i>id.</i> at H2138-63 (daily ed. Apr. 29, 1993); <i>id.</i> at S5393 (daily ed. May 4, 1993)	Apr. 1, 1993: Referred to the House Committee on Government Operations and the House Committee on Rules; hearing held by the House Committee on Rules; rule reported Apr. 28, 1993: Debated in the House Apr. 29, 1993: Debated, amended, and passed in the House by a 258-157 vote (House Vote no. 150) May 4, 1993: Referred to the Senate Committee on the Budget and the Committee on Governmental Affairs pursuant to the order of August 4, 1977

Rescission and Line-Item Veto Legislation In the 103d Congress

Sponsor	Bill No.	Short Title	Full Title	Record Citation	Action Taken
Spratt	H.R. 4600	Expedited Rescissions Act of 1994	A bill to amend the Congressional Budget and Impoundment Control Act of 1974 to provide for the expedited consideration of certain proposed rescissions of budget authority	140 CONG. REC. H4721 (daily ed. June 17, 1994), <i>id.</i> at H4957-58; D729 (daily ed. June 23, 1994), <i>id.</i> at D753 (daily ed. June 28, 1994), <i>id.</i> at H5700-30 (daily ed. July 14, 1994), <i>id.</i> at S9121 (daily ed. July 15, 1994)	June 17, 1994: Referred to the House Committee on Government Operations and Committee on Rules June 23, 1994: Markup held by the House Committee on Rules, ordered reported June 28, 1994: Hearing held by the House Committee on Rules; rule reported July 14, 1994: Debated, amended, and passed by the House by a 342-69 vote (House Vote no. 329) July 15, 1994: Referred to the Senate Committee on the Budget and the Committee on Governmental Affairs pursuant to the order of August 4, 1977
<i>Pending Before the Senate Finance Committee</i>					
Mack	S. 102	Economic Recovery Act of 1993	A bill to provide for a line-item veto, capital gains tax reduction, enterprise zones; raising the Social Security earnings limit, and workfare	139 CONG. REC. S540-41 (daily ed. Jan. 21, 1993)	Jan. 21, 1993: Referred to the Senate Committee on Finance

Rescission and Line-Item Veto Legislation In the 103d Congress

Sponsor	Bill No.	Short Title	Full Title	Record Citation	Action Taken
<i>Pending Before the Senate Rules Committee</i>					
Hollings	S. 92	Legislative Line-Item Veto Separate Enrollment Authority Act	A bill to create a legislative line item veto by requiring separate enrollment of items in appropriations bills	139 CONG. REC. S523 (daily ed. Jan. 21, 1993)	Jan. 21, 1993: Referred to the Senate Committee on Rules and Administration
Bradley	S. 526		A bill to create a legislative item veto by requiring separate enrollment of items in appropriations bills and tax expenditure provisions in revenue bills	139 CONG. REC. S2501-02 (daily ed. Mar. 5, 1993)	Mar. 5, 1993: Referred to the Senate Committee on Rules and Administration
<i>Pending Before the Senate Judiciary Committee</i>					
Specter	S.J. Res. 4		A joint resolution proposing a constitutional amendment to authorize the President to exercise a line-item veto over individual items of appropriation	139 CONG. REC. S614-15 (daily ed. Jan. 21, 1993)	Jan. 21, 1993: Referred to the Senate Committee on the Judiciary
Thurmond	S.J. Res. 15		A joint resolution proposing an amendment to the Constitution of the United States to allow the President to veto items of appropriation	139 CONG. REC. S622 (daily ed. Jan. 21, 1993)	Jan. 21, 1993: Referred to the Senate Committee on the Judiciary

Rescission and Line-Item Veto Legislation

In the 103d Congress

Sponsor	Bill No.	Short Title	Full Title	Record Citation	Action Taken
Simon	S. J. Res. 63		A joint resolution proposing an amendment to the Constitution authorizing the President to disapprove or reduce an item of appropriations	139 CONG. REC. S2778 (daily ed. Mar. 11, 1993)	Mar. 11, 1993: Referred to the Senate Committee on the Judiciary
Specter	S. Res. 195		A resolution expressing the sense of the Senate that the President currently has authority under the Constitution and that individual items of appropriation and that the President should exercise that authority without awaiting the enactment of additional authorization	140 CONG. REC. S3751-54 (daily ed. Mar. 24, 1994), <i>id.</i> at D675 (daily ed. June 15, 1994)	Mar. 24, 1994: Referred to the Senate Committee on the Judiciary June 15, 1994: Hearings held by the Subcommittee on the Constitution of the Senate Judiciary Committee
Specter	S. Res. 245		A resolution expressing the sense of the Senate that the President should exercise the line-item veto without awaiting the enactment of additional authorization for the purpose of obtaining a judicial determination of its constitutionality	140 CONG. REC. S9745 (daily ed. July 26, 1994)	July 26, 1994: Referred to the Senate Committee on the Judiciary
<i>Pending Before the House of Representatives</i>					
Solomon	H.R. 24	The Legislative Line Item Veto Act of 1993	A bill to give the President legislative, line-item veto authority over budget authority in appropriations bills in fiscal years 1994 and 1995	139 CONG. REC. H62-64, H83 (daily ed. Jan. 5, 1993)	Jan. 5, 1993: Referred to the House Committee on Government Operations and the House Committee on Rules

Rescission and Line-Item Veto Legislation In the 103d Congress

Sponsor	Bill No.	Short Title	Full Title	Record Citation	Action Taken
Duncan	H.R. 159	Legislative Line-Item Veto Act of 1993	A bill to grant the power to the President to reduce budget authority	139 CONG. REC. H104 (daily ed. Jan. 5, 1993)	Jan. 5, 1993: Referred to the House Committee on Government Operations and the House Committee on Rules
Johnson (S.D.)	H.R. 222	Line-Item Rescission Act of 1993	A bill to amend the Congressional Budget and Impoundment Control Act of 1974 to require expeditious consideration by the Congress of a proposal by the President to rescind all or part of any item of budget authority if the proposal is transmitted to the Congress on the same day on which the President approves the bill or joint resolution providing such budget authority	139 CONG. REC. H106 (daily ed. Jan. 5, 1993)	Jan. 5, 1993: Referred to the House Committee on Rules
Kasich	H.R. 223	Legislative Line-Item Veto Act of 1993	A bill to grant the power to the President to reduce budget authority	139 CONG. REC. H106 (daily ed. Jan. 5, 1993)	Jan. 5, 1993: Referred to the House Committee on Government Operations and the House Committee on Rules
Slattery	H.R. 354	Expedited Consideration of Proposed Rescissions Act of 1993	A bill to amend the Congressional Budget and Impoundment Control Act of 1974 to provide for the expedited consideration of certain proposed rescissions of budget authority	139 CONG. REC. H109-10 (daily ed. Jan. 5, 1993)	Jan. 5, 1993: Referred to the House Committee on Government Operations and the House Committee on Rules

Rescission and Line-Item Veto Legislation

In the 103d Congress

Sponsor	Bill No.	Short Title	Full Title	Record Citation	Action Taken
Michel	H.R. 493	The Enhanced Rescission/Receipts Act of 1993	A bill to give the President legislative, line-item veto rescission authority over appropriation bills and targeted tax benefits in revenue bills	139 CONG. REC. H119, E114-15 (daily ed. Jan. 20, 1993), <i>id.</i> at H7361 (daily ed. Sept. 30, 1993)	Jan. 20, 1993 Referred to the House Committee on Government Operations and the House Committee on Rules May 11, 1993 Motion to discharge committee (Discharge Petition No. 103-1) filed by Rep. Solomon
Kolbe	H.R. 565		A bill to amend the Congressional Budget Act of 1974 to reform the Federal budget process, and for other purposes	139 CONG. REC. H218 (daily ed. Jan. 25, 1993)	Jan. 25, 1993 Referred to the House Committee on Government Operations and the House Committee on Rules
Sundquist	H.R. 637		A bill to authorize the President to veto an item of appropriation in an Act or resolution	139 CONG. REC. H259 (daily ed. Jan. 26, 1993)	Jan. 26, 1993 Referred to House Committee on the Judiciary
Dornan	H.R. 666		A bill to amend the Impoundment Control Act of 1974 to provide that any rescission of budget authority proposed by the president take effect unless specifically disapproved by the adoption of a joint resolution	139 CONG. REC. H309 (daily ed. Jan. 27, 1993)	Jan. 27, 1993 Referred to the House Committee on Government Operations and the House Committee on Rules

Rescission and Line-Item Veto Legislation In the 103d Congress

Sponsor	Bill No.	Short Title	Full Title	Record Citation	Action Taken
Stenholm	H.R. 1013	Expedited Consideration of Proposed Rescissions Act of 1993	A bill to amend the Congressional Budget Control and Impoundment Act of 1974 to establish procedures for the expedited consideration by the Congress of certain proposals by the President to rescind amounts of budget authority	139 CONG. REC. H725, E367-68 (daily ed. Feb. 18, 1993)	Feb. 18, 1993: Referred to the House Committee on Government Operations and the House Committee on Rules
Walker	H.R. 1075		A bill to allow an item veto in appropriation Acts for fiscal years 1994, 1995, 1996, 1997, and 1998 by the President to reduce spending to levels necessary to achieve a balanced budget by fiscal year 1998, and to establish select committees on congressional budget and appropriation process reform in the House of Representatives and in the Senate	139 CONG. REC. H794 (daily ed. Feb. 23, 1993)	Feb. 23, 1993: Referred to the House Committee on Government Operations and the House Committee on Rules

Rescission and Line-Item Veto Legislation In the 103d Congress

Sponsor	Bill No.	Short Title	Full Title	Record Citation	Action Taken
Orton	H.R. 1138	Comprehensive Budget Process Reform Act of 1993	A bill to restructure the Federal budget process	139 CONG. REC. H869-74, H877-78 (daily ed. Feb. 24, 1993); <i>id.</i> at D589 (daily ed. May 26, 1993); <i>id.</i> at D667 (daily ed. June 16, 1993)	Feb. 24, 1993: Referred to the House Committee on Government Operations, the House Committee on Rules, and the House Committee on Public Works and Transportation May 26, 1993: Hearings held by the Subcommittee on Economic Development of the House Public Works and Transportation Committee June 16, 1993: Hearings held by the Subcommittee on Economic Development of the House Public Works and Transportation Committee
Bunning	H.R. 1253	Legislative Line Item Veto Act of 1993	A bill to give the President line-item veto rescission authority over appropriation bills	139 CONG. REC. H1079 (daily ed. Mar. 9, 1993)	Mar. 9, 1993: Referred to the House Committee on Government Operations and the House Committee on Rules
Slattery	H.R. 1514	Expedited Consideration of Proposed Revenue Amendments Act of 1993	A bill to amend the Congressional Budget and Impoundment Control Act of 1974 to provide for the expedited consideration of certain proposed congressionally approved amendments to the Internal Revenue Code of 1986	139 CONG. REC. H1686 (daily ed. Mar. 29, 1993)	Mar. 29, 1993: Referred to the House Committee on Rules and House Committee on Ways and Means

Rescission and Line-Item Veto Legislation In the 103d Congress

Sponsor	Bill No.	Short Title	Full Title	Record Citation	Action Taken
Minge	H.R. 1597	Line Item Veto Act	A bill to amend the Congressional Budget and Impoundment Control Act of 1974 to provide for the expedited consideration of certain proposed rescissions of budget authority	139 CONG. REC. H1856 (daily ed. Apr. 1, 1993)	Apr. 1, 1993: Referred to the House Committee on Government Operations and the House Committee on Rules
Stearns	H.R. 1636		A bill to provide for line-item veto; capital gains tax reduction; enterprise zones; raising the Social Security earnings limit; and workfare	139 CONG. REC. H1857 (daily ed. Apr. 1, 1993)	Apr. 1, 1993: Referred to the House Committee on Government Operations, the House Committee on Rules, and the House Committee on Ways and Means
Castle	H.R. 1642	The Legislative Line Item Veto Act of 1993	A bill to give the President legislative, line-item veto authority over budget authority in appropriations bills in fiscal years 1994 and 1995	139 CONG. REC. H1858 (daily ed. Apr. 1, 1993); <i>id.</i> at D765 (daily ed. July 13, 1993)	Apr. 1, 1993: Referred to the House Committee on Government Operations and the House Committee on Rules July 13, 1993: Joint subcommittee hearings held by the House Post Office and Civil Service Committee, Subcommittee on Census, Statistics and Postal Personnel, and Education & Labor Committee, Subcommittee on Elementary, Secondary, and Vocational Education
Cox	H.R. 2929		A bill to amend the Congressional Budget and Impoundment Act of 1974 to reform the budget process, and for other purposes	139 CONG. REC. H6378 (daily ed. Aug. 6, 1993)	Aug. 6, 1993: Referred to the House Committee on Government Operations, the House Committee on Rules, the House Committee on Appropriations, and the House Committee on Ways and Means

Rescission and Line-Item Veto Legislation In the 103d Congress

Sponsor	Bill No.	Short Title	Full Title	Record Citation	Action Taken
Stenholm	H R 4434	Common Cents Budget Reform Act of 1994	A bill to reform the concept of baseline budgeting, set forth strengthened procedures for the consideration of rescissions, provide a mechanism for dedicating savings from spending cuts to deficit reduction, and ensure that only one emergency is included in any bill containing an emergency designation	140 CONG REC H3521 (daily ed May 17, 1994), <i>id.</i> at H5715-30 (daily ed July 14, 1994)	May 17, 1994 Referred to the House Committee on Government Operations and the House Committee on Rules July 14, 1994 Similar provisions are included in the Stenholm substitute amendment to H R 4600, Expedited Rescissions Act, agreed to in the House
Allard	H J Res 4		Joint resolution proposing an amendment to the Constitution of the United States allowing an item veto in appropriations bills	139 CONG REC H85, E23-24 (daily ed Jan 5, 1993)	Jan 5, 1993 Referred to the House Committee on the Judiciary
Archer	H J Res 7		Joint resolution proposing an amendment to the Constitution of the United States allowing an item veto in appropriations bills	139 CONG REC H85 (daily ed Jan 5, 1993)	Jan 5, 1993 Referred to the House Committee on the Judiciary
Emerson	H J Res 25		Joint resolution proposing an amendment to the Constitution of the United States allowing an item veto in appropriations bills	139 CONG REC H86, E14 (daily ed Jan 5, 1993)	Jan 5, 1993 Referred to the House Committee on the Judiciary

Rescission and Line-Item Veto Legislation In the 103d Congress

Sponsor	Bill No.	Short Title	Full Title	Record Citation	Action Taken
Ewing	H J Res. 30		Joint resolution proposing an amendment to the Constitution allowing an item veto in appropriations	139 CONG. REC. H86 (daily ed. Jan. 5, 1993)	Jan. 5, 1993: Referred to the House Committee on the Judiciary
Kolbe	H J Res. 35		Joint resolution proposing an amendment to the Constitution allowing an item veto in appropriations	139 CONG. REC. H86, E55-56 (daily ed. Jan. 5, 1993)	Jan. 5, 1993: Referred to the House Committee on the Judiciary
Solomon	H J Res. 46		Joint resolution proposing an amendment to the Constitution of the United States allowing an item veto in appropriations Acts	139 CONG. REC. H87 (daily ed. Jan. 5, 1993)	Jan. 5, 1993: Referred to the House Committee on the Judiciary
Stump	H J Res. 50		Joint resolution proposing an amendment to the Constitution of the United States allowing the President to veto any item of appropriation or any provision in any Act or joint resolution containing an item of appropriation	139 CONG. REC. H87, E20 (daily ed. Jan. 5, 1993)	Jan. 5, 1993: Referred to the House Committee on the Judiciary

Rescission and Line-Item Veto Legislation In the 103d Congress

Sponsor	Bill No.	Short Title	Full Title	Record Citation	Action Taken
Zimmer	H.J. Res. 54		A joint resolution proposing an amendment to the Constitution of the United States to provide for a balanced budget for the United States Government and for greater accountability in the enactment of tax legislation and to allow an item veto of appropriation bills	139 CONG. REC. H87 (daily ed. Jan. 5, 1993)	Jan. 5, 1993: Referred to the House Committee on the Judiciary
Poshard	H.J. Res. 63		Joint resolution proposing an amendment to the Constitution authorizing the President to disapprove or reduce an item of appropriations	139 CONG. REC. H114 (daily ed. Jan. 6, 1993)	Jan. 6, 1993: Referred to the House Committee on the Judiciary
Clement	H.J. Res. 76		Joint resolution proposing an amendment to the Constitution of the United States authorizing the President to disapprove or reduce an item of appropriations	139 CONG. REC. H269, H310, E183-84 (daily ed. Jan. 27, 1993)	Jan. 27, 1993: Referred to the House Committee on the Judiciary
Franks (Conn.)	H.J. Res. 91		Joint resolution proposing an amendment to the Constitution of the United States authorizing the President to veto an item of appropriation in any Act or resolution containing such an item	139 CONG. REC. H483 (daily ed. Feb. 3, 1993)	Feb. 3, 1993: Referred to the House Committee on the Judiciary

Rescission and Line-Item Veto Legislation In the 103d Congress

Sponsor	Bill No.	Short Title	Full Title	Record Citation	Action Taken
Grams	H.J. Res. 115		Joint resolution proposing a balanced budget and line-item veto amendment to the Constitution of the United States	139 CONG. REC. H725 (daily ed. Feb. 18, 1993)	Feb. 18, 1993: Referred to the House Committee on the Judiciary
Hancock	H.J. Res. 183		Joint resolution proposing an amendment to the Constitution of the United States to allow an item veto of appropriation bills	139 CONG. REC. H2024 (daily ed. Apr. 22, 1993)	Apr. 22, 1993: Referred to the House Committee on the Judiciary
Allard	H.J. Res. 251		Joint resolution proposing an amendment to the Constitution of the United States to provide for budgetary reform by requiring the reduction of the deficit, a balanced Federal budget, the repayment of the national debt, and establishing line item veto authority for the President	139 CONG. REC. H6381, E2076-77 (daily ed. Aug. 6, 1993)	Aug. 6, 1993: Referred to the House Committee on the Judiciary
Zimmer	H.J. Res. 321		Joint resolution proposing an amendment to the Constitution of the United States allowing an item veto in appropriations bills and an item veto of contract authority or taxation changes in any other bill	140 CONG. REC. H410 (daily ed. Feb. 9, 1994)	Feb. 9, 1994: Referred to the House Committee on the Judiciary

Rescission and Line-Item Veto Legislation In the 103d Congress

Sponsor	Bill No.	Short Title	Full Title	Record Citation	Action Taken
Gutierrez	H. Con. Res. 58		Concurrent resolution to direct the appropriate Committees of the House of Representatives and the Senate to report legislation by July 30, 1993, to expand the rescission authority of the President	139 CONG. REC. H974, H1010 (daily ed. Mar. 3, 1993)	Mar. 3, 1993: Referred to the House Committee on Rules
Michel	H. Con. Res. 92		Concurrent resolution directing the Clerk of the House of Representatives to make corrections in the enrollment of H.R. 1578	139 CONG. REC. H2247 (daily ed. May 4, 1993)	May 4, 1993: Referred to the House Committee on House Administration, the House Committee on Government Operations, and the House Committee on Rules
Derrick	H. Res. 149		A resolution providing for the consideration of the bill (H.R. 1578) to amend the Congressional Budget and Impoundment Control Act of 1974 to provide for the expedited consideration of certain proposed rescissions of budget authority	139 CONG. REC. H1856 (daily ed. Apr. 1, 1993); <i>id.</i> at H1867-76 (daily ed. Apr. 2, 1993); <i>id.</i> at H2067-78 (daily ed. Apr. 28, 1993)	Apr. 1, 1993: Committee consideration and markup session held by the House Rules Committee; reported to the House by the House Committee on Rules (H.R. Rep. No. 103-52); placed on the House Calendar by unanimous consent (Calendar No. 27) Apr. 2, 1993: House began consideration; subsequently withdrawn Apr. 28, 1993: Agreed to in House by 212-208 vote (House Vote no. 144)

Rescission and Line-Item Veto Legislation

In the 103d Congress

Sponsor	Bill No.	Short Title	Full Title	Record Citation	Action Taken
Solomon	H. Res. 152		Resolution providing for the consideration of the bill (H.R. 1578) to amend the Congressional Budget and Impoundment Control Act of 1974 to provide for the expedited consideration of certain proposed rescissions of budget authority	139 CONG. REC. H1881 (daily ed. Apr. 2, 1993)	Apr. 2, 1993: Referred to the House Committee on Rules
Solomon	H. Res. 159		Resolution providing for the consideration of the bill (H.R. 24) to give the President line-item veto authority in appropriations bills for fiscal years 1994 and 1995	139 CONG. REC. H2024 (daily ed. Apr. 22, 1993)	Apr. 22, 1993: Referred to the House Committee on Rules
Solomon	H. Res. 258		Resolution providing for the consideration of the bill (H.R. 493) to give the President legislative, line-item veto rescission authority over appropriations bills and targeted tax benefits in revenue bills	139 CONG. REC. H7035 (daily ed. Sept. 27, 1993)	Sept. 27, 1993: Referred to the House Committee on Rules

Rescission and Line-Item Veto Legislation In the 103d Congress

Sponsor	Bill No.	Short Title	Full Title	Record Citation	Action Taken
Derrick	H Res. 467		Resolution providing for consideration of the bill (H R. 4600) to amend the Congressional Budget and Impoundment Control Act of 1974 to provide for the expedited consideration of certain proposed rescissions of budget authority	140 CONG. REC. H5315, D753 (daily ed. June 28, 1994), <i>id.</i> at H5692-700 (daily ed. July 14, 1994)	June 28, 1994 Committee consideration and markup session held by the House Rules Committee; reported to the House by the House Committee on Rules (H R. Rep. No. 103-565), placed on the House Calendar by unanimous consent July 14, 1994 Considered and agreed to in House by 240-185 vote (House Vote no 326)

PENDING BEFORE THE SENATE BUDGET COMMITTEE
SENATE BILLS

January 21, 1993

[From the Congressional Record pages S338-340]

II

103D CONGRESS
1ST SESSION

S. 9

To grant the power to the President to reduce budget authority.

IN THE SENATE OF THE UNITED STATES

JANUARY 21 (legislative day, JANUARY 5), 1993

Mr. COATS (for Mr. McCain) (for himself, Mr. COATS, Mr. THURMOND, Mr. BROWN, Mr. GRAMM, Mr. SIMPSON, Mr. McCONNELL, Mr. WALLOP, Mr. NICKLES, Mr. BOND, Mr. MACK, Mr. SMITH, Mrs. KASSEBAUM, Mr. HELMS, Mr. BURNS, Mr. KEMPTHORNE, Mr. LOTT, Mr. CHAFEE, Mr. LUGAR, Mr. WARNER, Mr. DANFORTH, and Mr. COVERDELL) introduced the following bill; which was read twice and referred jointly pursuant to the order of August 4, 1977, to the Committees on the Budget and Governmental Affairs, with instructions that if one Committee reports, the other Committee have thirty days to report or be discharged

A BILL

To grant the power to the President to reduce budget
authority.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the "Legislative Line Item
5 Veto Act of 1993."

1 SEC. 2. ENHANCEMENT OF SPENDING CONTROL BY THE
2 PRESIDENT.

3 The Impoundment Control Act of 1974 is amended
4 by adding at the end thereof the following new title:

5 "TITLE XI—LEGISLATIVE LINE ITEM VETO
6 RESCISSION AUTHORITY

7 "PART A—LEGISLATIVE LINE ITEM VETO RESCISSION
8 AUTHORITY

9 "GRANT OF AUTHORITY AND CONDITIONS

10 "SEC. 1101. (a) IN GENERAL.—Notwithstanding the
11 provisions of part B of title X and subject to the provisions
12 of part B of this title, the President may rescind all or
13 part of any budget authority, if the President—

14 "(1) determines that—

15 "(A) such rescission would help balance
16 the Federal budget, reduce the Federal budget
17 deficit, or reduce the public debt;

18 "(B) such rescission will not impair any
19 essential Government functions; and

20 "(C) such rescission will not harm the na-
21 tional interest; and

22 "(2)(A) notifies the Congress of such rescission
23 by a special message not later than 20 calendar days
24 (not including Saturdays, Sundays, or holidays)
25 after the date of enactment of a regular or supple-
26 mental appropriations Act or a joint resolution mak-

1 ing continuing appropriations providing such budget
2 authority; or

3 “(B) notifies the Congress of such rescission by
4 special message accompanying the submission of the
5 President’s budget to Congress and such rescissions
6 have not been proposed previously for that fiscal
7 year.

8 The President shall submit a separate rescission message
9 for each appropriations bill under paragraph (2)(A).

10 “(b) RESCISSION EFFECTIVE UNLESS DIS-
11 APPROVED.—(1)(A) Any amount of budget authority re-
12 scinded under this title as set forth in a special message
13 by the President shall be deemed canceled unless during
14 the period described in subparagraph (B), a rescission dis-
15 approval bill making available all of the amount rescinded
16 is enacted into law.

17 “(B) The period referred to in subparagraph (A) is—

18 “(i) a Congressional review period of 20 cal-
19 endar days of session under part B, during which
20 Congress must complete action on the rescission dis-
21 approval bill and present such bill to the President
22 for approval or disapproval;

23 “(ii) after the period provided in clause (i), an
24 additional 10 days (not including Sundays) during

1 which the President may exercise his authority to
2 sign or veto the rescission disapproval bill; and

3 “(iii) if the President vetoes the rescission dis-
4 approval bill during the period provided in clause
5 (ii), an additional 5 calendar days of session after
6 the date of the veto.

7 “(2) If a special message is transmitted by the Presi-
8 dent under this section during any Congress and the last
9 session of such Congress adjourns sine die before the expi-
10 ration of the period described in paragraph (1)(B), the
11 rescission shall not take effect. The message shall be
12 deemed to have been retransmitted on the first day of the
13 succeeding Congress and the review period referred to in
14 paragraph (1)(B) (with respect to such message) shall run
15 beginning after such first day.

16 “DEFINITIONS

17 “SEC. 1102. For purposes of this title the term ‘re-
18 scission disapproval bill’ means a bill or joint resolution
19 which only disapproves a rescission of budget authority,
20 in whole, rescinded in a special message transmitted by
21 the President under section 1101.

22 “PART B—CONGRESSIONAL CONSIDERATION OF
23 LEGISLATIVE LINE ITEM VETO RESCISSIONS

24 “PRESIDENTIAL SPECIAL MESSAGE

25 “SEC. 1111. Whenever the President rescinds any
26 budget authority as provided in section 1101, the Presi-

1 dent shall transmit to both Houses of Congress a special
2 message specifying—

3 “(1) the amount of budget authority rescinded;

4 “(2) any account, department, or establishment
5 of the Government to which such budget authority
6 is available for obligation, and the specific project or
7 governmental functions involved;

8 “(3) the reasons and justifications for the de-
9 termination to rescind budget authority pursuant to
10 section 1101(a)(1);

11 “(4) to the maximum extent practicable, the es-
12 timated fiscal, economic, and budgetary effect of the
13 rescission; and

14 “(5) all facts, circumstances, and considerations
15 relating to or bearing upon the rescission and the
16 decision to effect the rescission, and to the maxi-
17 mum extent practicable, the estimated effect of the
18 rescission upon the objects, purposes, and programs
19 for which the budget authority is provided.

20 “TRANSMISSION OF MESSAGES; PUBLICATION

21 “SEC. 1112. (a) DELIVERY TO HOUSE AND SEN-
22 ATE.—Each special message transmitted under sections
23 1101 and 1111 shall be transmitted to the House of Rep-
24 resentatives and the Senate on the same day, and shall
25 be delivered to the Clerk of the House of Representatives
26 if the House is not in session, and to the Secretary of

1 the Senate if the Senate is not in session. Each special
2 message so transmitted shall be referred to the appro-
3 priate committees of the House of Representatives and the
4 Senate. Each such message shall be printed as a document
5 of each House.

6 “(b) PRINTING IN FEDERAL REGISTER.—Any special
7 message transmitted under sections 1101 and 1111 shall
8 be printed in the first issue of the Federal Register pub-
9 lished after such transmittal.

10 “PROCEDURE IN SENATE

11 “SEC. 1113. (a) REFERRAL.—(1) Any rescission dis-
12 approval bill introduced with respect to a special message
13 shall be referred to the appropriate committees of the
14 House of Representatives or the Senate, as the case may
15 be.

16 “(2) Any rescission disapproval bill received in the
17 Senate from the House shall be considered in the Senate
18 pursuant to the provisions of this section.

19 “(b) FLOOR CONSIDERATION IN THE SENATE.—

20 “(1) Debate in the Senate on any rescission dis-
21 approval bill and debatable motions and appeals in
22 connection therewith, shall be limited to not more
23 than 10 hours. The time shall be equally divided be-
24 tween, and controlled by, the majority leader and the
25 minority leader or their designees.

1 “(2) Debate in the Senate on any debatable mo-
2 tion or appeal in connection with such a bill shall be
3 limited to 1 hour, to be equally divided between, and
4 controlled by, the mover and the manager of the bill,
5 except that in the event the manager of the bill is
6 in favor of any such motion or appeal, the time in
7 opposition thereto shall be controlled by the minority
8 leader or his designee. Such leaders, or either of
9 them, may, from the time under their control on the
10 passage of the bill, allot additional time to any Sen-
11 ator during the consideration of any debatable mo-
12 tion or appeal.

13 “(3) A motion to further limit debate is not de-
14 batable. A motion to recommit (except a motion to
15 recommit with instructions to report back within a
16 specified number of days, not to exceed 1, not count-
17 ing any day on which the Senate is not in session)
18 is not in order.

19 “(c) POINT OF ORDER.—(1) It shall not be in order
20 in the Senate or the House of Representatives to consider
21 any rescission disapproval bill that relates to any matter
22 other than the rescission of budget authority transmitted
23 by the President under section 1101.

1 “(2) It shall not be in order in the Senate or the
2 House of Representatives to consider any amendment to
3 a rescission disapproval bill.

4 “(3) Paragraphs (1) and (2) may be waived or sus-
5 pended in the Senate only by a vote of three-fifths of the
6 members duly chosen and sworn.”.

By Mr. COATS (for Mr. MCCAIN; (for himself, Mr. COATS, Mr. THURMOND, Mr. BROWN, Mr. GRAMM, Mr. SIMPSON, Mr. MCCONNELL, Mr. WALLOP, Mr. NICKLES, Mr. BOND, Mr. MACK, Mr. SMITH, Mrs. KASSEBAUM, Mr. HELMS, Mr. BURNS, Mr. KEMPThORNE, Mr. LOTT, Mr. CHAFFEE, Mr. LUGAR, Mr. WARNER, Mr. DANFORTH, Mr. COVERDELL, Mr. PRESSLER, and Mr. BOREN)):

S. 9. A bill to grant the power to the President to reduce budget authority; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, with instructions that if one committee reports, the other committee have 30 days to report or be charged.

BUDGET REDUCTION AUTHORITY

Mr. MCCAIN. Mr. President, yesterday President Clinton gave our Nation a call to arms. He called for an American renewal. I pledge to work with our newly elected President to renew our country and refurbish our Nation's vitality.

Now, Mr. President, is the time to move quickly and decisively. Now is the time to give the President what he has asked for. Now is the time to pass the line-item veto.

Today I am joining Senators COATS, THURMOND, BROWN, GRAMM, SIMPSON, MCCONNELL, WALLOP, NICKLES, BOND, MACK, SMITH, KASSEBAUM, HELMS, BURNS, KEMPThORNE, LOTT, CHAFFEE, LUGAR, WARNER, and DANFORTH in reintroducing as one of the Republican priority bills the legislative line-item veto.

This bill is very simple. It enables the President, 20 days after the enactment of an appropriations bill, to identify items of spending within that bill which the President believes are wasteful, and to notify the Congress that the President is eliminating or reducing the funds for those items.

The President may veto part or all of the funds for programs deemed wasteful. It also allows the President to submit such enhanced rescissions with the budget submission at the beginning of the year. This second opportunity to propose rescissions ensures that the President has the opportunity to strike at wasteful pork barrel spending that may not be obvious during the first rescission period.

The Congress is required to overturn these line-item vetoes with majority votes in the House and Senate within 20 days or they become effective. The President may veto the rescission disapproval bill. In that case, the veto may be overridden by a two-thirds vote of the House and Senate. Last, this bill would not allow the President to rescind appropriations for entitlements such as Social Security, Medicaid, or food stamps.

More specifically, the Line-Item Veto Act of 1993 amends part B of title X of the Impoundment Control Act of 1974. It does not amend part A of title X of the Impoundment Control Act of 1974.

Mr. President, to those who charge that the line-item veto is a partisan game or an unneeded shift in power, I resoundingly state, you are wrong. The line-item veto is a necessity. Our Nation's fiscal house is in disarray. We are mortgaging our children's future. We must pay heed to President Clinton and listen to the trumpets that are heralding change throughout our country.

We must give the President the line-item veto.

On page 17 of then-Governor Clinton's "Putting People First, A National Economic Strategy for America," the President specifically states the following:

"Line-Item Veto. To eliminate pork-barrel projects and cut government waste, I will ask Congress to give me the line-item veto."

During the President's stirring Inauguration Address, he boldly and most correctly declared:

"Americans deserve better * * * so that power and privilege no longer shout down the voice of the people. Let us put aside personal advantage so that we can feel the pain and see the promise of America * * * Let us give this capital back to the people to whom it belongs."

It is time to give the President the power that 43 governors possess. It is time to give the President the line-item veto. It is time to do the people's bidding. The people who send us here want the line-item veto. We must now put aside the partisan and institutional pride and do what the people demand: We must give the President the line-item veto.

While as some will wax eloquently on the floor, giving us history lessons, explaining theoretical concepts that baffle the working men and women on America's streets, the public is demanding more. They want change. They want a renewed America.

The public has grown full of "pork books" and "pork kings." As the Washington Times stated on January 20, 1993:

"The economy is down. Unemployment is up. The deficit is rising. Respect for government officialdom is failing. Yet the Congress of the United States can still spend billions on projects of absolutely no use to the taxpayers. Appropriately, our elected leaders have also allocated \$140,000 for swine research."

A line-item veto will allow President Clinton an opportunity to do what we have shown ourselves incapable of doing—exercising fiscal restraint and eliminating funding for things like swine research.

Mr. President, I state again, we must give the President the line-item veto. I hope the Congress will act quickly on this issue.

I ask unanimous consent that the full text of the Legislative Line-Item Veto Act of 1993 appear in the RECORD following my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

• Mr. CHAFEE. Mr. President, I am happy to join Senators MCCAIN and COATS in introducing the legislative Line-Item Veto Act. This legislation gives the President the authority to strike specific provisions from spending bills without having to veto the entire bill.

It is clear to most of us here in the Senate that we must begin to take the necessary steps to reduce the deficit. The national debt—now exceeding \$4 trillion—is choking the Federal Government, and threatens our ability, as elected representatives, from effectively addressing the problems facing this country. Most economists agree that the Federal Government's huge Federal deficits were a factor in the recent recession, and hinder the recovery that is underway.

Last year the Federal Government paid almost as much in interest as it spent on all domestic discretionary programs combined. interest expense is the third largest single expenditure in the Federal budget, behind Social Security and defense. If we continue our present course, interest will soon surpass defense as the second largest spending item in our budget.

We must remember that paying interest on the debt does nothing to address this country's most pressing needs. Interest does not assist in providing pregnant women and newborns with the medical and nutritional help they need. It does nothing in support of enhancing research and development to make our country more competitive. Interest provides no funds for expanding the Head Start Program so that all eligible children can receive the educational assistance they need. In short, the interest we now pay to support our past excesses robs us of the ability to meet today's pressing needs.

The line-item veto authority is one tool that we can give to the President to combat the deficit. It alone cannot balance the budget. Entitlement programs comprise almost half of all Federal outlays, yet they are not subject to the annual appropriations process. We must also find a way to control these programs. And, finally, it may be necessary to look at additional revenue sources to help balance the budget, but it is my hope that we will look long and hard at the spending side of the budget before we take that step.

Mr. President, I commend the Senator from Arizona, Mr. McCAIN and the Senator from Indiana, Mr. COATS for reintroducing this legislation. I urge my colleagues to support this effort so that the new President has the tools he needs to fulfill his campaign pledge to reduce the deficit. •

Mr. COVERDELL. Mr. President, during this past year the citizens of my State and the country have demonstrated grave concerns with regard to the fiscal crisis and dilemma being experienced by our country.

In the Presidential campaign, all candidates spoke eloquently and often to issues of debt and deficit. In his inaugural speech, President Clinton addressed the issue of debt in our Nation.

In record numbers, Georgians and Americans turned out to express their frustration and concern in this past election. It is clear to me that much of this concern is rooted in the issue of the financial crisis faced by our country as shown by this debt and deficit.

Mr. President, 49 Governors of the United States, including the former Governor of Arkansas and now the President of the United States, had as a fiscal tool to utilize in financial discipline, the line-item veto.

Mr. President, as a member of the Georgia Senate for many years, I had the opportunity to witness first hand the value of the chief executive of our State having as a financial discipline the tool of the line-item veto.

I believe it is exceedingly important that the 103d Congress be responsive to the call of our new President. I believe it is responsible for us to react to the electorate of this country when it calls for enormous proportions the institution of new disciplines and rules that relate to the manner in which we manage our financial affairs.

Therefore, I join with the President of the United States, Senator MCCAIN, and others, and the people of this country, in their call for the institution of a line-item veto.

Mr. President, thank you.

I yield the floor.

January 27, 1993

[From the Congressional Record page S754]

II

103D CONGRESS
1ST SESSION

S. 224

To amend the Congressional Budget and Impoundment Control Act of 1974 to grant the President enhanced authority to rescind amounts of budget authority.

IN THE SENATE OF THE UNITED STATES

JANUARY 27 (legislative day, JANUARY 5), 1993

Mr. EXON introduced the following bill; which was read twice and referred jointly pursuant to the order of August 4, 1977, to the Committees on the Budget and Governmental Affairs, with instructions that if one Committee reports, the other Committee have thirty days to report or be discharged

A BILL

To amend the Congressional Budget and Impoundment Control Act of 1974 to grant the President enhanced authority to rescind amounts of budget authority.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the "Enhanced Rescissions
5 Act of 1993".

2

1 SEC. 2. EXPEDITED CONSIDERATION OF CERTAIN PRO-
2 POSED RESCISSIONS.

3 (a) IN GENERAL.—Part B of title X of the Congres-
4 sional Budget and Impoundment Control Act of 1974 (2
5 U.S.C. 681 et seq.) is amended by redesignating sections
6 1013 through 1017 as sections 1014 through 1018, re-
7 spectively, and inserting after section 1012 the following
8 new section:

9 “EXPEDITED CONSIDERATION OF CERTAIN PROPOSED
10 RESCISSIONS

11 “SEC. 1013. (a) PROPOSED RESCISSION OF BUDGET
12 AUTHORITY.—In addition to the method of rescinding
13 budget authority specified in section 1012, the President
14 may propose, at the time and in the manner provided in
15 subsection (b), the rescission of any budget authority pro-
16 vided in an appropriations Act. Funds made available for
17 obligation under this procedure may not be proposed for
18 rescission again under this section or section 1012.

19 “(b) TRANSMITTAL OF SPECIAL MESSAGE.—

20 “(1) Not later than 3 days after the date of en-
21 actment of an appropriation Act, the President may
22 transmit to Congress one or more special messages
23 proposing to rescind all or any part of any item of
24 budget authority provided in that Act and include
25 with each special message a draft bill or joint resolu-
26 tion that, if enacted, would rescind each item of

1 budget authority (or part thereof) proposed to be re-
2 scinded.

3 “(2) Each special message shall specify, with
4 respect to the budget authority proposed to be re-
5 scinded, the matters referred to in paragraphs (1)
6 through (5) of section 1012(a).

7 “(c) PROCEDURES FOR EXPEDITED CONSIDER-
8 ACTION.—

9 “(1)(A) Before the close of the second day of
10 continuous session of the applicable House after the
11 date of receipt of a special message transmitted to
12 Congress under subsection (b), the majority leader
13 or minority leader of the House of Congress in
14 which the appropriation Act involved originated shall
15 introduce (by request) the draft bill or joint resolu-
16 tion accompanying that special message. If the bill
17 or joint resolution is not introduced as provided in
18 the preceding sentence, then, on the third day of
19 continuous session of that House after the date of
20 receipt of that special message, any Member of that
21 House may introduce the bill or joint resolution.

22 “(B) The bill or joint resolution shall be re-
23 ferred to the Committee on Appropriations of that
24 House. The committee shall report the bill or joint
25 resolution without substantive revision and with or

1 without recommendation. The bill or joint resolution
2 shall be reported not later than the seventh day of
3 continuous session of that House after the date of
4 receipt of that special message. If the Committee on
5 Appropriations fails to report the bill or joint resolu-
6 tion within that period, that committee shall be
7 automatically discharged from consideration of the
8 bill or joint resolution, and the bill or joint resolu-
9 tion shall be placed on the appropriate calendar.

10 “(C) A vote on final passage of the bill or joint
11 resolution shall be taken in that House on or before
12 the close of the 10th calendar day of continuous ses-
13 sion of that House after the date of the introduction
14 of the bill or joint resolution in that House. If the
15 bill or joint resolution is agreed to, the Clerk of the
16 House of Representatives (in the case of a bill or
17 joint resolution agreed to in the House of Represent-
18 atives) or the Secretary of the Senate (in the case
19 of a bill or joint resolution agreed to in the Senate)
20 shall cause the bill or joint resolution to be en-
21 grossed, certified, and transmitted to the other
22 House of Congress on the same calendar day on
23 which the bill or joint resolution is agreed to.

24 “(2)(A) A bill or joint resolution transmitted to
25 the House of Representatives or the Senate pursu-

5

1 ant to paragraph (1)(C) shall be referred to the
2 Committee on Appropriations of that House. The
3 committee shall report the bill or joint resolution
4 without substantive revision and with or without rec-
5 ommendation. The bill or joint resolution shall be re-
6 ported not later than the seventh day of continuous
7 session of that House after it receives the bill or
8 joint resolution. A committee failing to report the
9 bill or joint resolution within such period shall be
10 automatically discharged from consideration of the
11 bill or joint resolution, and the bill or joint resolu-
12 tion shall be placed upon the appropriate calendar.

13 “(B) A vote on final passage of a bill or joint
14 resolution transmitted to that House shall be taken
15 on or before the close of the 10th calendar day of
16 continuous session of that House after the date on
17 which the bill or joint resolution is transmitted. If
18 the bill or joint resolution is agreed to in that
19 House, the Clerk of the House of Representatives
20 (in the case of a bill or joint resolution agreed to in
21 the House of Representatives) or the Secretary of
22 the Senate (in the case of a bill or joint resolution
23 agreed to in the Senate) shall cause the engrossed
24 bill or joint resolution to be returned to the House
25 in which the bill or joint resolution originated.

1 “(3)(A) A motion in the House of Representa-
2 tives to proceed to the consideration of a bill or joint
3 resolution under this section shall be highly privi-
4 leged and not debatable. An amendment to the mo-
5 tion shall not be in order, nor shall it be in order
6 to move to reconsider the vote by which the motion
7 is agreed to or disagreed to.

8 “(B) Debate in the House of Representatives
9 on a bill or joint resolution under this section shall
10 not exceed 4 hours, which shall be divided equally
11 between those favoring and those opposing the bill
12 or joint resolution. A motion further to limit debate
13 shall not be debatable. It shall not be in order to
14 move to recommit a bill or joint resolution under
15 this section or to move to reconsider the vote by
16 which the bill or joint resolution is agreed to or dis-
17 agreed to.

18 “(C) Appeals from decisions of the Chair relat-
19 ing to the application of the Rules of the House of
20 Representatives to the procedure relating to a bill or
21 joint resolution under this section shall be decided
22 without debate.

23 “(D) Except to the extent specifically provided
24 in the preceding provisions of this subsection, con-
25 sideration of a bill or joint resolution under this sec-

1 tion shall be governed by the Rules of the House of
2 Representatives.

3 “(4)(A) A motion in the Senate to proceed to
4 the consideration of a bill or joint resolution under
5 this section shall be privileged and not debatable. An
6 amendment to the motion shall not be in order, nor
7 shall it be in order to move to reconsider the vote
8 by which the motion is agreed to or disagreed to.

9 “(B) Debate in the Senate on a bill or joint res-
10 olution under this section, and all debatable motions
11 and appeals in connection therewith, shall not exceed
12 10 hours. The time shall be equally divided between,
13 and controlled by, the majority leader and the mi-
14 nority leader or their designees.

15 “(C) Debate in the Senate on any debatable
16 motion or appeal in connection with a bill or joint
17 resolution under this section shall be limited to not
18 more than 1 hour, to be equally divided between,
19 and controlled by, the mover and the manager of the
20 bill or joint resolution, except that in the event the
21 manager of the bill or joint resolution is in favor of
22 any such motion or appeal, the time in opposition
23 thereto, shall be controlled by the minority leader or
24 his designee. Such leaders, or either of them, may,
25 from time under their control on the passage of a

1 bill or joint resolution, allot additional time to any
2 Senator during the consideration of any debatable
3 motion or appeal.

4 “(D) A motion in the Senate to further limit
5 debate on a bill or joint resolution under this section
6 is not debatable. A motion to recommit a bill or joint
7 resolution under this section is not in order.

8 “(d) AMENDMENTS PROHIBITED.—No amendment to
9 a bill or joint resolution considered under this section shall
10 be in order in either the House of Representatives or the
11 Senate. No motion to suspend the application of this sub-
12 section shall be in order in either House, nor shall it be
13 in order in either House to suspend the application of this
14 subsection by unanimous consent.

15 “(e) REQUIREMENT TO MAKE AVAILABLE FOR OBLI-
16 GATION.—Any amount of budget authority proposed to be
17 rescinded in a special message transmitted to Congress
18 under subsection (b) shall be made available for obligation
19 on the day after the date on which either House defeats
20 the bill or joint resolution transmitted with that special
21 message.

22 “(f) DEFINITIONS.—For purposes of this section—

23 “(1) The term ‘appropriation Act’ means any
24 general or special appropriation Act, and any Act or

1 joint resolution making supplemental, deficiency, or
2 continuing appropriations.

3 “(2) The continuity of a session of the Congress
4 shall be considered as broken only by an adjourn-
5 ment of the Congress sine die, and the days on
6 which either House is not in session because of an
7 adjournment of more than 3 days to a day certain
8 shall be excluded in the computation of the periods
9 of continuous session referred to in subsection (c) of
10 this section. If a special message is transmitted
11 under this section during any Congress and the last
12 session of the Congress adjourns sine die before the
13 expiration of 10 calendar days of continuous session
14 (or a special message is transmitted after the last
15 session of the Congress adjourns sine die), the mes-
16 sage shall be deemed to have been transmitted on
17 the first day of the succeeding Congress and the pe-
18 riods of continuous session referred to in subsection
19 (c) of this section shall commence on the day after
20 such first day.”.

21 (b) **EXERCISE OF RULEMAKING POWERS.**—Section
22 904 of such Act (2 U.S.C. 621 note) is amended—

23 (1) by striking “and 1017” in subsection (a)
24 and inserting “1013, and 1018”; and

10

1 (2) by striking “section 1017” in subsection (d)
2 and inserting “sections 1013 and 1018”.

3 (c) CONFORMING AMENDMENTS.—

4 (1) Section 1011 of such Act (2 U.S.C. 682(5))
5 is amended—

6 (A) in paragraph (4), by striking “1013”
7 and inserting “1014”; and

8 (B) in paragraph (5)—

9 (i) by striking “1016” and inserting
10 “1017”; and

11 (ii) by striking “1017(b)(1)” and in-
12 serting “1018(b)(1)”.

13 (2) Section 1015 of such Act (2 U.S.C. 685)
14 (as redesignated by section 2(a)) is amended—

15 (A) by striking “1012 or 1013” each place
16 it appears and inserting “1012, 1013, or
17 1014”;

18 (B) in subsection (b)(1), by striking
19 “1012” and inserting “1012 or 1013”;

20 (C) in subsection (b)(2), by striking
21 “1013” and inserting “1014”; and

22 (D) in subsection (e)(2)—

23 (i) by striking “and” at the end of
24 subparagraph (A);

11

1 (ii) by redesignating subparagraph
2 (B) as subparagraph (C);

3 (iii) by striking "1013" in subpara-
4 graph (C) (as so redesignated) and insert-
5 ing "1014"; and

6 (iv) by inserting after subparagraph
7 (A) the following new subparagraph:

8 "(B) he has transmitted a special message
9 under section 1013 with respect to a proposed
10 rescission; and".

11 (3) Section 1016 of such Act (2 U.S.C. 686)
12 (as redesignated by section 2(a)) is amended by
13 striking "1012 or 1013" each place it appears and
14 inserting "1012, 1013, or 1014".

15 (d) CLERICAL AMENDMENTS.—The table of sections
16 for subpart B of title X of such Act is amended—

17 (1) by redesignating the items relating to sec-
18 tions 1013 through 1017 as items relating to sec-
19 tions 1014 through 1018; and

20 (2) by inserting after the item relating to sec-
21 tion 1012 the following new item:

"Sec. 1013. Expedited consideration of certain proposed rescissions."

Mr. EXON. I am introducing today a package of budget reform measures that I hope the Congress will pass and the new administration will use in order to get our country's bloated Federal spending under control.

One of the first places that needs to be cut in the Federal budget is the pork barrel spending. Each year Congress passes appropriation bills that are laden with individual funding for special projects, funding that is sought by specific Members of Congress. Although each such item no doubt has its merits, there is little question but that a prime motive in many appropriation items is to enable a Member of Congress to bring home the bacon.

Our current system of Government works to fuel the flames of unlimited spending and needs to be changed. It is simply unrealistic to expect individual Members to volunteer not to pursue pork for his or her State or district when others will continue their efforts in that regard. The President, in determining whether to sign a bill, must look at each bill as a whole and is therefore forced to accept the good things in the bill along with the bad. So today I am introducing the Enhanced Rescissions Act, which would give our President the authority to rescind specific funding included in our appropriations bills. Upon making a decision to rescind an item, the President would be required to seek congressional approval. If Congress does not agree by at least a majority vote in both Houses, then the funding must be released. This is a reasonable solution because it would require Members of Congress to publicly vote on their spending requests and force them to defend each item individually.

The second measure I am introducing as part of my budget reform package is a bill that would require the President to submit and the Congress to enact a balanced Federal budget.

Several years ago I introduced similar legislation and noted that deficit spending was one of our most serious problems. That was before we set a record deficit of over \$265 billion in 1991. That was before our Federal debt topped the \$4 trillion mark. It now seems certain that our indebtedness will be well over \$5 trillion before we can begin to reduce it.

Our new President, like myself, served for many years as Governor of a State that requires a balanced budget. He knows that balancing a budget requires making tough decisions and understanding that political leadership is essential if we are to develop a budget that is fair and acceptable to the American public. The Federal Government has no such law requiring a balanced budget and in my opinion, it needs one as one more tool on the way to restoring fiscal responsibility to our Federal budgets.

The third measure in my budget package is debt ceiling reform. Although we have now seen a series of bills that have addressed our budget process, the fact is that we still do not link our budget with our debt ceiling. This would be the most honest and obvious way of measuring our Federal deficits.

This bill would mandate that we include extending the debt ceiling as part of our annual budget process. Congress would be forced to determine, as part of the budget process, how much the debt ceiling needs to be raised for the coming year. This would necessitate continuous enforcement of the deficit targets contained in

each year's budget. If Congress borrows funds at a rate faster than contemplated by the annual budget, then a three-fifths vote would be required to increase the debt ceiling. By contrast, other measures to resolve the problem, such as a reduction in spending, would require only a simple majority vote. In the past, the easiest way to resolve our debt ceiling.

As this new session of Congress begins, I am calling for several reforms to our budget process. It is obvious that our efforts to place some controls on our deficit spending have failed miserably.

But just a few days ago, we heard a stirring and effective inaugural address from our new President. What was particularly impressive, and refreshing, to me as our new President's willingness to call upon our citizens to make the sacrifices that we all know must be made if we are to obtain some control over our Federal budget. The measures I have introduced today would require the Congress to meet the American people in this challenge. I think they expect and deserve no less and I will be working hard toward that end.

Mr. President, at this time, I send to the desk three bills that I just referenced and I ask that accompanying statements with each one of these bills be printed in the RECORD. I request that the bills be printed in the RECORD and appropriately referred.

The PRESIDING OFFICER. Without objection, it is so ordered. Mr. EXON. I thank the Chair.

(The remarks of Mr. EXON pertaining to the introduction of S. 224, S. 225, and S.J. Res. 25 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

[From the Congressional Record pages S796-798]

By Mr. EXON:

S. 224. A bill to amend the Congressional Budget and Impoundment Control Act of 1974 to grant the President enhanced authority to rescind amounts of budget authority; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, with instructions that if one committee reports, the other committee have 30 days to report or be discharged.

ENHANCED RESCISSIONS ACT OF 1993

Mr. EXON. Mr. President, but a few days ago, we heard a stirring and effective inaugural address from our new President. What was particularly impressive, and refreshing, to me was our new President's willingness to call upon our citizens to make the sacrifices that we all know must be made if we are to obtain some control over our out-of-control Federal budget.

Members of Congress must be willing to sacrifice as well. As far as I am concerned, an excellent place to start is for Members of Congress to sacrifice pork barrel spending. Each year Congress passes appropriation bills that are laden with individual funding for special projects, funding that is sought by specific Members. Although each such item no doubt has its merits, there is little question but that prime motive in many appropriation items is to enable a Member of Congress to bring home the bacon. We all seek such funding and frankly we all like to receive it.

The result is that pork is often but a perk, a useful perk that can readily be used in a reselection campaign. But, it is an expensive perk that Congress can and should be willing to sacrifice for the benefit of future generations.

Our current system works to fuel the flames of unlimited spending and needs to change. It is simply unrealistic to expect individual Members to volunteer not to pursue pork for his or her State or district when others will continue their efforts in that regard. Our President in determining whether to sign each bill must look at each one as a whole and is forced to accept the bad with the good.

The solution to this problem is to give our President the line-item veto. As Governor of the State of Nebraska I was privileged to have the line-item veto power. I used the line-item veto authority frequently and found it to be very effective in controlling the spending of my State legislature. I have long believed that our President should have this power as well.

The line-item veto authority would give our President the ability to attack pork barrel spending and would be an invaluable tool in our President's efforts to limit governmental spending. It would hardly solve our budgetary problems but it would certainly help.

Mr. President, in previous years, I have supported efforts to change our Constitution to allow for a line-item veto. I have also been a leader in congressional efforts to give our President enhanced rescission powers.

Over 6 years ago, I joined with former Vice President Quayle in sponsoring an enhanced rescission proposal. Just last year, I supported an amendment offered by Senator MCCAIN that would have also given our President greater rescission powers.

It has become very clear through the years that we simply do not have the votes in the Senate to pass a constitutional amendment for a line-item veto. Further, Senator MCCAIN'S amendment garnered only 40 votes for a proposal that would surely be filibustered and would thus need at least 60 votes to pass the Senate.

The very clear writing on the wall is that proposals such as those stand little, if any, chance of becoming law. But that hardly means that nothing can be done to give our President greater power to fight pork barrel spending.

The House of Representatives last year overwhelmingly passed a proposal to require Congress to vote on rescission messages from our President. That proposal was quite similar to the amendment I cosponsored in 1986.

The key difference between the bill passed by the House of Representatives and other enhanced rescission or line-item veto proposals is that the former would require only a majority vote in Congress to overturn a Presidential recommendation as compared to the two-thirds super majority that would be required under the latter proposals.

Taking the majority vote approach strikes me as a reasonable compromise and one that stands a better chance of serious consideration by Congress. As such, I am today introducing the Enhanced Rescissions Act.

This bill would change our current rescissions process by giving our President the authority not to spend specific funding included

in our appropriation bills. Upon making a decision to rescind certain spending, our President would then be required to seek congressional approval. If Congress does not agree by at least a majority vote in both Houses, then the funding must be released.

It is certainly reasonable to force Members of Congress to publicly vote on spending requests that our President views as unnecessary or inappropriate. Members of Congress will be much less likely to add pork to our appropriation bills if they know that they might be forced to defend each item individually on its own merits.

I urge each of my colleagues to take a close look at what I am proposing. It is similar to the bill passed in the House last year, yet I have eliminated the restrictions and loopholes included in that bill so that our President will truly have the ability to force a vote on each particular line item of each appropriation bill. As such, this proposal is a responsible and fair approach and one that would greatly assist our new President, and those who follow, in his efforts to reduce our Federal deficit.

Mr. President, I ask unanimous consent that the text of the bill be printed in the CONGRESSIONAL RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

February 25, 1993

[From the Congressional Record pages S2089-2091]

II

103D CONGRESS
1ST SESSION**S. 437**

To amend the Congressional Budget and Impoundment Control Act of 1974 to establish procedures for the expedited consideration by the Congress of certain proposals by the President to rescind amounts of budget authority.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 25 (legislative day, JANUARY 5), 1993

Mr. KRUEGER introduced the following bill; which was read twice and referred jointly pursuant to the order of August 4, 1977, to the Committees on the Budget and Governmental Affairs, with instructions that if one Committee reports, the other Committee have thirty days to report or be discharged

A BILL

To amend the Congressional Budget and Impoundment Control Act of 1974 to establish procedures for the expedited consideration by the Congress of certain proposals by the President to rescind amounts of budget authority.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the "Expedited Consider-
5 ation of Proposed Rescissions Act of 1993".

1 SEC. 2. EXPEDITED CONSIDERATION OF CERTAIN PRO-
2 POSED RESCISSIONS.

3 (a) IN GENERAL.—Part B of title X of the Congres-
4 sional Budget and Impoundment Control Act of 1974 (2
5 U.S.C. 681 et seq.) is amended by redesignating sections
6 1013 through 1017 as sections 1014 through 1018, re-
7 spectively, and inserting after section 1012 the following
8 new section:

9 “EXPEDITED CONSIDERATION OF CERTAIN PROPOSED
10 RESCISSIONS

11 “SEC. 1013. (a) PROPOSED RESCISSION OF BUDGET
12 AUTHORITY.—In addition to the method of rescinding
13 budget authority specified in section 1012, the President
14 may propose, at the time and in the manner provided in
15 subsection (b), the rescission of any budget authority pro-
16 vided in an appropriations Act.

17 “(b) TRANSMITTAL OF SPECIAL MESSAGE.—

18 “(1) At any time after the date of enactment of
19 an appropriation Act, the President may transmit to
20 Congress a special message proposing to rescind
21 amounts of budget authority provided in that Act
22 and include with that special message a draft bill or
23 joint resolution that, if enacted, would only rescind
24 that budget authority.

25 “(2) In the case of an appropriation Act that
26 includes accounts within the jurisdiction of more

1 than one subcommittee of the Committee on Approp-
2 riations, the President in proposing to rescind
3 budget authority under this section shall send a sep-
4 arate special message and accompanying draft bill or
5 joint resolution for accounts within the jurisdiction
6 of each such subcommittee.

7 “(3) Each special message shall specify, with
8 respect to the budget authority proposed to be re-
9 scinded, the matters referred to in paragraphs (1)
10 through (5) of section 1012(a).

11 “(c) PROCEDURES FOR EXPEDITED CONSIDER-
12 ATION.—

13 “(1)(A) Before the close of the first day of con-
14 tinuous session of the applicable House after the
15 date of receipt of a special message transmitted to
16 Congress under subsection (b), the majority leader
17 or minority leader of the House of Congress in
18 which the appropriation Act involved originated shall
19 introduce (by request) the draft bill or joint resolu-
20 tion accompanying that special message. If the bill
21 or joint resolution is not introduced as provided in
22 the preceding sentence, then, on the second day of
23 continuous session of that House after the date of
24 receipt of that special message, any Member of that
25 House may introduce the bill or joint resolution.

1 the Senate (in the case of a bill or joint resolution
2 agreed to in the Senate) shall cause the engrossed
3 bill or joint resolution to be returned to the House
4 in which the bill or joint resolution originated.

5 “(3)(A) A motion in the House of Representa-
6 tives to proceed to the consideration of a bill or joint
7 resolution under this section shall be highly privi-
8 leged and not debatable. An amendment to the mo-
9 tion shall not be in order, nor shall it be in order
10 to move to reconsider the vote by which the motion
11 is agreed to or disagreed to.

12 “(B) Debate in the House of Representatives
13 on a bill or joint resolution under this section shall
14 not exceed 4 hours, which shall be divided equally
15 between those favoring and those opposing the bill
16 or joint resolution. A motion further to limit debate
17 shall not be debatable. It shall not be in order to
18 move to recommit a bill or joint resolution under
19 this section or to move to reconsider the vote by
20 which the bill or joint resolution is agreed to or dis-
21 agreed to.

22 “(C) Appeals from decisions of the Chair relat-
23 ing to the application of the Rules of the House of
24 Representatives to the procedure relating to a bill or

1 joint resolution under this section shall be decided
2 without debate.

3 “(D) Except to the extent specifically provided
4 in the preceding provisions of this subsection, con-
5 sideration of a bill or joint resolution under this sec-
6 tion shall be governed by the Rules of the House of
7 Representatives.

8 “(4)(A) A motion in the Senate to proceed to
9 the consideration of a bill or joint resolution under
10 this section shall be privileged and not debatable. An
11 amendment to the motion shall not be in order, nor
12 shall it be in order to move to reconsider the vote
13 by which the motion is agreed to or disagreed to.

14 “(B) Debate in the Senate on a bill or joint res-
15 olution under this section, and all debatable motions
16 and appeals in connection therewith, shall not exceed
17 10 hours. The time shall be equally divided between,
18 and controlled by, the majority leader and the mi-
19 nority leader or their designees.

20 “(C) Debate in the Senate on any debatable
21 motion or appeal in connection with a bill or joint
22 resolution under this section shall be limited to not
23 more than 1 hour, to be equally divided between,
24 and controlled by, the mover and the manager of the
25 bill or joint resolution, except that in the event the

1 manager of the bill or joint resolution is in favor of
2 any such motion or appeal, the time in opposition
3 thereto, shall be controlled by the minority leader or
4 his designee. Such leaders, or either of them, may,
5 from time under their control on the passage of a
6 bill or joint resolution, allot additional time to any
7 Senator during the consideration of any debatable
8 motion or appeal.

9 “(D) A motion in the Senate to further limit
10 debate on a bill or joint resolution under this section
11 is not debatable. A motion to recommit a bill or joint
12 resolution under this section is not in order.

13 “(d) AMENDMENTS PROHIBITED.—No amendment to
14 a bill or joint resolution considered under this section shall
15 be in order in either the House of Representatives or the
16 Senate. No motion to suspend the application of this sub-
17 section shall be in order in either House, nor shall it be
18 in order in either House to suspend the application of this
19 subsection by unanimous consent.

20 “(e) DEFINITIONS.—For purposes of this section—

21 “(1) the term ‘appropriation Act’ means any
22 general or special appropriation Act, and any Act or
23 joint resolution making supplemental, deficiency, or
24 continuing appropriations; and

1 “(2) continuity of a session of either House of
2 Congress shall be considered as broken only by an
3 adjournment of that House sine die, and the days on
4 which that House is not in session because of an ad-
5 journment of more than 3 days to a date certain
6 shall be excluded in the computation of any period.”.

7 (b) EXERCISE OF RULEMAKING POWERS.—Section
8 904 of such Act (2 U.S.C. 621 note) is amended—

9 (1) by striking “and 1017” in subsection (a)
10 and inserting “1013, and 1018”; and

11 (2) by striking “section 1017” in subsection (d)
12 and inserting “sections 1013 and 1018”; and

13 (c) CONFORMING AMENDMENTS.—

14 (1) Section 1011 of such Act (2 U.S.C. 682(5))
15 is amended—

16 (A) in paragraph (4), by striking “1013”
17 and inserting “1014”; and

18 (B) in paragraph (5)—

19 (i) by striking “1016” and inserting
20 “1017”; and

21 (ii) by striking “1017(b)(1)” and in-
22 serting “1018(b)(1)”.

23 (2) Section 1015 of such Act (2 U.S.C. 685)
24 (as redesignated by section 2(a)) is amended—

1 (A) by striking "1012 or 1013" each place
2 it appears and inserting "1012, 1013, or
3 1014";

4 (B) in subsection (b)(1), by striking
5 "1012" and inserting "1012 or 1013";

6 (C) in subsection (b)(2), by striking
7 "1013" and inserting "1014"; and

8 (D) in subsection (e)(2)—

9 (i) by striking "and" at the end of
10 subparagraph (A);

11 (ii) by redesignating subparagraph
12 (B) as subparagraph (C);

13 (iii) by striking "1013" in subpara-
14 graph (C) (as so redesignated) and insert-
15 ing "1014"; and

16 (iv) by inserting after subparagraph
17 (A) the following new subparagraph:

18 "(B) he has transmitted a special message
19 under section 1013 with respect to a proposed
20 rescission; and".

21 (3) Section 1016 of such Act (2 U.S.C. 686)
22 (as redesignated by section 2(a)) is amended by
23 striking "1012 or 1013" each place it appears and
24 inserting "1012, 1013, or 1014".

1 (d) CLERICAL AMENDMENTS.—The table of sections
2 for subpart B of title X of such Act is amended—

3 (1) by redesignating the items relating to sec-
4 tions 1013 through 1017 as items relating to sec-
5 tions 1014 through 1018; and

6 (2) by inserting after the item relating to sec-
7 tion 1012 the following new item:

“Sec. 1013. Expedited consideration of certain proposed rescissions.”.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. KRUEGER:

S. 437. A bill to amend the Congressional Budget and Impoundment Control Act of 1974 to establish procedures for the expedited consideration by the Congress of certain proposals by the President to rescind amounts of budget authority; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, with instructions that if one Committee reports, the other Committee has thirty days to report or be discharged.

FEDERAL GOVERNMENT LEGISLATION

Mr. KRUEGER. Mr. President, I am today introducing two bills, one that I would call the Federal Efficiency Improvement Act of 1993 and the other one to expedite consideration of proposed rescissions.

I am introducing this legislation, Mr. President, because it seems to me that this Nation is facing a time of loss of confidence in Government itself and in its efficiency in a time in which our own budgetary pressures are perhaps unrivaled in recent years.

This is going to be, in my judgement, one of the most crucial legislative sessions since the New Deal itself. Our task is not simply to restore fiscal discipline to our Government, but our task is to help restore confidence in the American people themselves that we are capable of dealing with very large and complex financial problems.

All over America, people are looking at business and saying, business must become leaner, it must become more streamlined, business has to become increasingly a high-quality, low-cost producer. At this point, people are still inclined to feel that Government itself is high cost, low quality, the opposite side of what they are aspiring to.

Our President has indicated his willingness to address some very tough fiscal questions, and he is also recognizing the need, as we are in this body, to try to down size our own activities to make them more prudent, more fiscally responsible.

To help carry out this mandate, I am introducing the Federal Efficiency Improvement Act that would allow for the appointment of a special assistant to the President who would be empowered to conduct a total performance audit of every Federal department, including in fact the General Accounting Office itself. This special assistant would independently manage a tough minded staff of 200 existing Federal employees, chosen for their prior experience with Federal programs.

In many cases, the people who best understand how to make Government more efficient are the people who are front-line employees but sometimes are caught in circumstances in which there are very few rewards for efficiency. In Government, there is so often a tendency to reward spending rather than saving. If we look at the many currently successful businesses in our country, compa-

nies like WalMart, there are companies that reward savings inside the company rather than simply spending. A reward system that would encourage the same thing of our Federal employees would, I think, tap a reservoir of knowledge, experience, and capacity that currently we are not tapping.

This audit team's main function would be to study the Federal Government by function and not merely by agency. By concentrating on function, the audit team would be able to more effectively, highlight wastefulness and inefficiency within Government agencies.

I think it important as well that the audit team's responsibilities go beyond simply identifying misused resources. I would expect it to make recommendations for improving the effectiveness and quality of Government services, to suggest ways in which operations could perhaps be restructured in order to bring about long-term savings, to rationalize governmentwide activities like procurement and personnel and to try to establish incentives for bringing in returns that were, in fact, under budget.

I think many of these recommendations could come from front-line Government employees. Others might come from people brought in to assist not sort of high-powered consultants or academic types but entrepreneurs who have experience on how to make companies run more efficiently.

Within 6 months of the bill's passage the audit team would be required to submit a detailed set of findings and recommendations to the President including specific rescissions of budgetary authority and proposals for legislation to implement the recommendations. Within 60 days of submission of this report, the President would be obliged to identify all rescissions of budget authority that he deems necessary to implement the team's recommendations.

I make this suggestion in part because of the experience in my own State of Texas. There, State comptroller John Sharp conducted such performance audits and in 1991, these performance audits rendered a savings of \$2.4 billion out of a \$30 billion budget; in other words, there was a savings of about 12 percent. If a savings of comparable sort might be found in the Federal Government, it would be \$150 billion in the first year.

I am not expecting anything of that sort. But the important thing is I think we direct ourselves toward the task of saving rather than spending and that we direct ourselves toward creating a Government again deserving of the people's trust.

The American people are fully willing to sacrifice but they are willing to sacrifice for what they believe are worthy ends. If we think of the stores with which we do business, the stores with which we do business were providing services for which we were not fully satisfied, then for those stores to raise the prices would be simply unacceptable. I think that is the challenge we face right now. To ask the American people to put in more taxes at a time they do not feel their taxes are being well spent is to ask them for something to which they will not readily respond. It seems to me first we must make Government sacrifice before we ask the American people to sacrifice further.

Therefore, the legislation that I am introducing today provides for expedited rescission of wasteful Government spending by the

President and the rescission authority would allow the President more quickly to eliminate inefficiencies in Government operations such as those that were to be identified by these Federal audit teams.

Both the bills that I am introducing today will address the critically important aspect of our obligation to the American taxpayer, efficient and exemplary operation of the Federal Government. I know that people in both Houses are proposing various ways to eliminate wasteful Government spending. I am certain that during the course of this year we will have many suggestions and that there will be fruitful ways to improve upon the legislation I am introducing.

But I think it immensely important we convey to one another and to the American people that we recognize their concern for how we as stewards are spending their money. I think that this aspect of stewardship is one which will be benefited by having performance audits which will allow us to identify what it is we are doing in Government with these resources which have been entrusted to us.

I therefore look forward to seeking further support from my colleagues and to having this legislation considered by this body, because I am convinced that the American people believe it is indeed a time ready for change and a time that is crucial in the very economic and fiscal development of this country.

So I am pleased to be able to introduce this legislation and will seek to bring forward the bills soon.

I thank the Chair.

The PRESIDENT pro tempore. The bills will be received and appropriately referred.

April 1, 1993

[From the Congressional Record pages S4270-4273]

II

103D CONGRESS
1ST SESSION

S. 690

To amend the Congressional Budget Control and Impoundment Act of 1974 to establish procedures for the expedited consideration by the Congress of certain proposals by the President to rescind amounts of budget authority.

IN THE SENATE OF THE UNITED STATES

APRIL 1 (legislative day, MARCH 3), 1993

Mr. CRAIG (for himself, Mr. COHEN, and Mr. KEMPTHORNE) introduced the following bill; which was read twice and referred jointly pursuant to the order of August 4, 1977, to the Committees on the Budget and Governmental Affairs, with instructions that if one Committee reports, the other Committee have thirty days to report or be discharged.

A BILL

To amend the Congressional Budget Control and Impoundment Act of 1974 to establish procedures for the expedited consideration by the Congress of certain proposals by the President to rescind amounts of budget authority.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the "Modified Line Item
5 Veto/Expedited Rescissions Act of 1993".

1 **SEC. 2. EXPEDITED CONSIDERATION OF CERTAIN PRO-**
2 **POSED RESCISSIONS.**

3 (a) **IN GENERAL.**—Part B of title X of the Congres-
4 sional Budget and Impoundment Control Act of 1974 (2
5 U.S.C. 681 et seq.) is amended by redesignating sections
6 1013 through 1017 as sections 1014 through 1018, re-
7 spectively, and inserting after section 1012 the following
8 new section:

9 “**EXPEDITED CONSIDERATION OF CERTAIN PROPOSED**
10 **RESCISSIONS**

11 “**SEC. 1013. (a) PROPOSED RESCISSION OF BUDGET**
12 **AUTHORITY.**—In addition to the method of rescinding
13 budget authority specified in section 1012, the President
14 may propose, at the time and in the manner provided in
15 subsection (b), the rescission of any budget authority pro-
16 vided in an appropriations Act. Funds made available for
17 obligation under this procedure may not be proposed for
18 rescission again under this section or section 1012.

19 “**(b) TRANSMITTAL OF SPECIAL MESSAGE.**—

20 “(1) Not later than 3 days after the date of en-
21 actment of an appropriation Act, the President may
22 transmit to Congress a special message proposing to
23 rescind amounts of budget authority provided in
24 that Act and include with that special message a
25 draft bill that, if enacted, would only rescind that
26 budget authority. That bill shall clearly identify the

1 amount of budget authority that is proposed to be
2 rescinded for each program, project, or activity to
3 which that budget authority relates.

4 “(2) In the case of an appropriation Act that
5 includes accounts within the jurisdiction of more
6 than one subcommittee of the Committee on Appro-
7 priations, the President in proposing to rescind
8 budget authority under this section shall send a sep-
9 arate special message and accompanying draft bill
10 for accounts within the jurisdiction of each such sub-
11 committee.

12 “(3) Each special message shall specify, with
13 respect to the budget authority proposed to be re-
14 scinded, the matters referred to in paragraphs (1)
15 through (5) of section 1012(a).

16 “(c) LIMITATION ON AMOUNTS SUBJECT TO RESCIS-
17 SION.—

18 “(1) The amount of budget authority which the
19 President may propose to rescind in a special mes-
20 sage under this section for a particular program,
21 project, or activity for a fiscal year may not exceed
22 25 percent of the amount appropriated for that pro-
23 gram, project, or activity in that Act.

24 “(2) The limitation contained in paragraph (1)
25 shall only apply to amounts specifically authorized to

1 be appropriated for a particular program, project, or
2 activity.

3 “(d) PROCEDURES FOR EXPEDITED CONSIDER-
4 ATION.—

5 “(1)(A) Before the close of the second legisla-
6 tive day of the House of Representatives after the
7 date of receipt of a special message transmitted to
8 Congress under subsection (b), the majority leader
9 or minority leader of the House of Representatives
10 shall introduce (by request), the draft bill accom-
11 panying that special message. If the bill is not intro-
12 duced as provided in the preceding sentence, then,
13 on the third legislative day of the House of Rep-
14 resentatives after the date of receipt of that special
15 message, any Member of that House may introduce
16 the bill.

17 “(B) The bill shall be referred to the Commit-
18 tee on Appropriations of the House of Representa-
19 tives. The committee shall report the bill without
20 substantive revision and with or without rec-
21 ommendation. The bill shall be reported not later
22 than the seventh legislative day of that House after
23 the date of receipt of that special message. If the
24 Committee on Appropriations fails to report the bill
25 within that period, that committee shall be auto-

1 matically discharged from consideration of the bill,
2 and the bill shall be placed on the appropriate
3 calendar.

4 “(C) During consideration under this para-
5 graph, any Member of the House of Representatives
6 may move to strike any proposed rescission or re-
7 scissions of budget authority if supported by 49
8 other Members.

9 “(D) A vote on final passage of the bill shall be
10 taken in the House of Representatives on or before
11 the close of the 10th legislative day of that House
12 after the date of the introduction of the bill in that
13 House. If the bill is passed, the Clerk of the House
14 of Representatives shall cause the bill to be en-
15 grossed, certified, and transmitted to the Senate
16 within one calendar day of the day on which the bill
17 is passed.

18 “(2)(A) A motion in the House of Representa-
19 tives to proceed to the consideration of a bill under
20 this section shall be highly privileged and not debat-
21 able. An amendment to the motion shall not be in
22 order, nor shall it be in order to move to reconsider
23 the vote by which the motion is agreed to or dis-
24 agreed to.

1 “(B) Debate in the House of Representatives
2 on a bill under this section shall not exceed 4 hours,
3 which shall be divided equally between those favoring
4 and those opposing the bill. A motion further to
5 limit debate shall not be debatable. It shall not be
6 in order to move to recommit a bill under this sec-
7 tion or to move to reconsider the vote by which the
8 bill is agreed to or disagreed to.

9 “(C) Appeals from decisions of the Chair relat-
10 ing to the application of the Rules of the House of
11 Representatives to the procedure relating to a bill
12 under this section shall be decided without debate.

13 “(D) Except to the extent specifically provided
14 in the preceding provisions of this subsection, con-
15 sideration of a bill under this section shall be gov-
16 erned by the Rules of the House of Representatives.

17 “(3)(A) A bill transmitted to the Senate pursu-
18 ant to paragraph (1)(D) shall be referred to its
19 Committee on Appropriations. The committee shall
20 report the bill without substantive revision and with
21 or without recommendation. The bill shall be re-
22 ported not later than the seventh legislative day of
23 the Senate after it receives the bill. A committee
24 failing to report the bill within such period shall be
25 automatically discharged from consideration of the

1 bill, and the bill shall be placed upon the appropriate
2 calendar.

3 “(B) During consideration under this para-
4 graph, any Member of the Senate may move to
5 strike any proposed rescission or rescissions of budg-
6 et authority if supported by 14 other Members.

7 “(C) A vote on final passage of a bill transmit-
8 ted to the Senate shall be taken on or before the
9 close of the 10th legislative day of the Senate after
10 the date on which the bill is transmitted. If the bill
11 is passed in the Senate without amendment, the Sec-
12 retary of the Senate shall cause the engrossed bill to
13 be returned to the House of Representatives.

14 “(D) If the bill is amended in the Senate solely
15 as provided by subparagraph (B), the Secretary of
16 the Senate shall cause an engrossed amendment (in
17 the nature of a substitute) to be returned to the
18 House of Representatives. Any Member of the
19 House may offer a privileged motion that the House
20 concur in that Senate amendment. That motion is
21 not subject to a demand for division of the question
22 and the previous question is considered as ordered
23 on the motion to final adoption without intervening
24 motion.

1 “(4)(A) A motion in the Senate to proceed to
2 the consideration of a bill under this section shall be
3 privileged and not debatable. An amendment to the
4 motion shall not be in order, nor shall it be in order
5 to move to reconsider the vote by which the motion
6 is agreed to or disagreed to.

7 “(B) Debate in the Senate on a bill under this
8 section, and all debatable motions and appeals in
9 connection therewith, shall not exceed 10 hours. The
10 time shall be equally divided between, and controlled
11 by, the majority leader and the minority leader or
12 their designees.

13 “(C) Debate in the Senate on any debatable
14 motion or appeal in connection with a bill under this
15 section shall be limited to not more than 1 hour, to
16 be equally divided between, and controlled by, the
17 mover and the manager of the bill, except that in
18 the event the manager of the bill is in favor of any
19 such motion or appeal, the time in opposition there-
20 to, shall be controlled by the minority leader or his
21 designee. Such leaders, or either of them, may, from
22 time under their control on the passage of a bill,
23 allot additional time to any Senator during the con-
24 sideration of any debatable motion or appeal.

1 “(D) A motion in the Senate to further limit
2 debate on a bill under this section is not debatable.
3 A motion to recommit a bill under this section is not
4 in order.

5 “(e) AMENDMENTS AND DIVISIONS PROHIBITED.—
6 Except as provided by paragraph (1)(C) or (3)(B) of sub-
7 section (d), no amendment to a bill considered under this
8 section shall be in order in either the House of Represent-
9 atives or the Senate. It shall not be in order to demand
10 a division of the question in the House of Representatives
11 (or in a Committee of the Whole) or in the Senate. No
12 motion to suspend the application of this subsection shall
13 be in order in either House, nor shall it be in order in
14 either House to suspend the application of this subsection
15 by unanimous consent.

16 “(f) REQUIREMENT TO MAKE AVAILABLE FOR OBLI-
17 GATION.—Any amount of budget authority proposed to be
18 rescinded in a special message transmitted to Congress
19 under subsection (b) shall be made available for obligation
20 on the day after the date on which either House defeats
21 the bill transmitted with that special message.

22 “(g) DEFINITIONS.—For purposes of this section—

23 “(1) the term ‘appropriation Act’ means any
24 general or special appropriation Act, and any Act or

1 joint resolution making supplemental, deficiency, or
2 continuing appropriations; and

3 “(2) the term ‘legislative day’ means, with re-
4 spect to either House of Congress, any day during
5 which that House is in session.”.

6 (b) EXERCISE OF RULEMAKING POWERS.—Section
7 904 of such Act (2 U.S.C. 621 note) is amended—

8 (1) by striking “and 1017” in subsection (a)
9 and inserting “1013, and 1018”; and

10 (2) by striking “section 1017” in subsection (d)
11 and inserting “sections 1013 and 1018”.

12 (c) CONFORMING AMENDMENTS.—

13 (1) Section 1011 of such Act (2 U.S.C. 682(5))
14 is amended—

15 (A) in paragraph (4), by striking “1013”
16 and inserting “1014”; and

17 (B) in paragraph (5)—

18 (i) by striking “1016” and inserting
19 “1017”; and

20 (ii) by striking “1017(b)(1)” and in-
21 serting “1018(b)(1)”.

22 (2) Section 1015 of such Act (2 U.S.C. 685)
23 (as redesignated by section 2(a)) is amended—

11

1 (A) by striking "1012 or 1013" each place
2 it appears and inserting "1012, 1013, or
3 1014";

4 (B) in subsection (b)(1), by striking
5 "1012" and inserting "1012 or 1013";

6 (C) in subsection (b)(2), by striking
7 "1013" and inserting "1014"; and

8 (D) in subsection (e)(2)—

9 (i) by striking "and" at the end of
10 subparagraph (A);

11 (ii) by redesignating subparagraph
12 (B) as subparagraph (C);

13 (iii) by striking "1013" in subpara-
14 graph (C) (as so redesignated) and insert-
15 ing "1014"; and

16 (iv) by inserting after subparagraph
17 (A) the following new subparagraph:

18 "(B) he has transmitted a special message
19 under section 1013 with respect to a proposed
20 rescission; and".

21 (3) Section 1016 of such Act (2 U.S.C. 686)
22 (as redesignated by section 2(a)) is amended by
23 striking "1012 or 1013" each place it appears and
24 inserting "1012, 1013, or 1014".

1 (d) CLERICAL AMENDMENTS.—The table of sections
2 for subpart B of title X of such Act is amended—

3 (1) by redesignating the items relating to sec-
4 tions 1013 through 1017 as items relating to sec-
5 tions 1014 through 1018; and

6 (2) by inserting after the item relating to sec-
7 tion 1012 the following new item:

“Sec. 1013. Expedited consideration of certain proposed rescissions.”.

By Mr. CRAIG (for himself, Mr. COHEN, and Mr. KEMPTHORNE):

S. 690. A bill to amend the Congressional Budget Control and Impoundment Act of 1974 to establish procedures for the expedited consideration by the Congress of certain proposals by the President to rescind amounts of budget authority; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, with instructions that if one committee reports, the other committee have 30 days to report or be charged.

MODIFIED LINE-ITEM VETO/EXPEDITED RESCISSION ACT OF 1993

Mr. CRAIG. Mr. President, I rise to invite my colleagues to join me today in introducing legislation that would give the President of the United States a modified line-item veto power, by requiring the expedited consideration of special rescission messages submitted by the President upon enactment of appropriations bills.

GENERAL COMMENTS

Why has there been so much debate lately, and why am I introducing a bill regarding, the line-item veto?

Because the American people are demanding grater fiscal responsibility.

There is broad support from Republicans, Democrats, and Perot supporters. My colleagues will recall that Ross Perot endorsed balanced budget and line-item veto when he testified before the Joint Committee on the Organization of Congress.

A line-item veto is not all of the answer to current fiscal dilemma, but an important part of it.

Such a measure would increase accountability—spending items will have to stand up on their own merits.

It promotes legislating in the sunshine—spending that can't stand the spotlight—and heat—will wither.

The bill I am introducing today is the companion to H.R. 1013, introduced in the other body by Representatives CHARLIE STENHOLM and DICK ARMEY of Texas several dozen others.

This is the bill most likely to pass the other body and, I believe, this body as well. It is possible they will be voting today in the House on this issue.

This is the bipartisan, balanced consensus bill that has been developed over the course of several years.

It is similar to last year's H.R. 2164, which passed the other body 312-97, with endorsements by the leadership of both parties in the other body and was endorsed by both President Bush and candidate Clinton.

OPERATION OF THE BILL, IN GENERAL

The Modified Line-Item Veto/Expedited Rescission Act allows the President to focus scrutiny on items that are hidden and bundled into omnibus appropriations bills. It will prevent Congress from ignoring the President's proposed rescissions, as happens today.

The modified line-item veto process is an add on to current Budget Act procedures.

It does not in any way prevent the President from proposing and Congress from enacting additional rescissions under current law procedures.

The bill would mandate and expedite consideration of rescissions proposed by the President.

As my colleagues know, this differs from most traditional variations of the line-item veto, by essentially allowing a majority of Congress to override Presidential disapproval of an individual spending item, instead of requiring a two-thirds majority.

I would prefer to enact a stronger line-item veto, but the important thing is isolating and forcing reconsideration of individually indefensible spending items. That is the core purpose, the essential virtue, at the heart of all line-item veto proposals.

The only substantial difference from the House companion is that the bill I am introducing today does not contain a sunset after 2 years, for several reasons:

My colleagues on the other side of the aisle shouldn't want to take this procedure away from their President in midstream:

The modified line-item veto approach already represents a compromise; and

We don't need a sunset to review and revise after some experience with the new procedure.

TIMELINE

Under this bill, the President would have 3 days after date of enactment of an appropriations act to transmit a special message and draft bill proposing rescissions to that act;

The majority and/or minority leader in the House of Representatives would have 2 legislative days to introduce, by request, the President's rescission package;

The House must vote on final passage of the rescission package, within 10 legislative days of introduction of the bill;

The clerk of the House would have 1 calendar day to engross, certify, and transmit the House-passed rescission bill to the Senate;

The Senate must then consider and vote on final passage within 10 legislative days after the rescission bill is transmitted from the House;

If the Senate does not strike any item of rescission from the House-passed bill, it then goes to the President for signature. If any item is struck, the remaining package is returned to the House, where any Member may offer a privileged motion to concur in the Senate amendment in an up-or-down vote.

STRIKING PROPOSED ITEMS OF RESCISSION

Under this bill, the President's rescission package could not be amended. However, the question may be divided, for the purpose of striking one or more rescission, or in other words, reinstating that item of appropriation, only if 50 Members in the House or 15 Members in the Senate stand in support of a motion to divide.

The purpose of the procedure allowing a motion to divide and strike an item is to strike a reasonable balance between legitimate, competing interests:

Congress can protect an individual item of appropriation when there is strong, national support for that item;

Striking one rescission would not jeopardize the rest of the President's package; and

The entire process strikes a balance between Congress' ability to package many items together when passing the initial appropriations bill and the President's ability to package multiple items in his rescission message.

DIFFERENTIATION BETWEEN AUTHORIZED AND UNAUTHORIZED ITEMS

In this bill, the President could propose to strike 100 percent of an appropriated program or item not previously authorized by law. The President could propose striking 25 percent of previously authorized items. There are several reasons for this difference:

An item previously authorized has already received legislative scrutiny at least once in each body;

Midnight pork is 100 percent penalized;

An earmark in an appropriation that is not previously authorized is 100 percent vulnerable, even if its parent program was previously authorized.

Mr. President, I ask unanimous consent that the text of the bill and a summary be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

SUMMARY OF MODIFIED LINE-ITEM VETO/EXPEDITED RESCISSION LEGISLATION

The legislation would amend the Budget Control and Impoundment Act of 1974 to set in place the following supplemental procedure for rescissions for a two-year trial period:

After signing an appropriations bill into law, the president would have three days to submit to the House a rescission message that includes all proposed rescissions from the Appropriations bill just signed and a draft bill that would enact the proposed rescissions.

The president could propose to rescind 100 percent of unauthorized programs and up to 25 percent of specifically authorized programs or projects.

The resolution would be introduced in the House at the earliest opportunity by the majority and minority leaders. The bill would be referred to the Appropriations Committee, which must report it out without substantive amendment within seven days.

Within ten legislative days of introduction, a vote shall be taken on the rescission bill. The bill may not be amended on the floor, except that 50 House members can request a vote on a motion to strike an individual rescission from the rescission bill.

If approved by a simple majority of the House, the bill would be sent to the Senate for consideration under the same expedited procedure. Fifteen Senators may request a separate vote on an individual rescission.

If a simple majority in either the House or Senate defeats a rescission proposal, the funds for programs covered by the proposal would be released for obligation in accordance with the previously enacted appropriation.

If a rescission bill is approved by the House and Senate, it would be sent to the President for his signature.

Mr. KEMPTHORNE. Mr. President, I rise today in support of the amendment offered by my colleague from Idaho.

And I think I speak for a number of Senators, on both sides of the aisle, when I say it's about time!

For too long, Congress and the President have been engaging in finger-pointing over whose to blame for our country's growing budget crisis. It's time to stop finger-pointing, and start doing something about it!

The President campaigned for a line-item veto. I applaud him for that. I also campaigned for a line-item veto. Idahoans made it very clear that this is an issue that crosses party lines. Republicans, Democrats, and Independents all want the President to have the ability to cut excess spending that finds its way into legislation.

The line-item veto is an effective tool for cutting that excess. Most of our State governments think so; 43 Governors have the line-item veto. It's time our Chief Executive has that same ability.

It's significant that Republicans are offering this amendment while a Democrat is in the White House. A Democrat who told me, just a few weeks ago when he met with Republican Senators, that he still wants the line-item veto. In fact, when I asked the President that question directly, he told me, "Yes, send it to me and I'll sign it." President Clinton realizes how important a tool the line-item veto is to getting our fiscal year house in order, and we must give it to him.

There are times when I will genuinely disagree with the President on economic issues. I disagreed with his budget—I voted against the largest tax increases in our Nation's history. I disagree that more spending and more Government is really an economic stimulus. But in those areas where I agree, I will do so—not necessarily as a Republican—but as an American. An American worried about the future my two children will face if we don't reign in this insatiable Government appetite for spending.

As the Senate debates the President's economic stimulus plan, I keep hearing it referred to as an emergency package. Mr. President, yes, we have an emergency. The real emergency in America is cutting the Federal deficit. The fear in America is that we are drowning in debt. And now to add to that fear of enormous debt is the fear of new taxes, new regulations, and more Government.

In the Senate, we get caught up arguing over the nuances of a bill or proposal. I campaigned on the line-item veto. Idahoans told me they don't care about the nuances. They just know the system isn't working, and needs to be fixed.

The farmer in his pickup truck who met me in Hamer, ID, at 6:30 in the morning; the logging family in Sandpoint; and the folks who took time to meet with me at an Emmett cafe—all had one request: Don't forget about us. Mr. President, that's advice all of us should take to heart. Don't forget the hard-working American taxpayer. Don't forget the people we work for. If a line-item veto is a tool the President says he needs to meet the expectations my constituents have for real, meaningful deficit reduction, let's give it to him.

April 2, 1993

[From the Congressional Record pages S4399-4400]

II

103D CONGRESS
1ST SESSION**S. 740**

To amend the Congressional Budget and Impoundment Control Act of 1974 to provide for the expedited consideration of certain proposed rescissions of budget authority and certain tax expenditure repeals.

IN THE SENATE OF THE UNITED STATES

APRIL 2 (legislative day, MARCH 3), 1993

Mr. COHEN introduced the following bill; which was read twice and referred jointly pursuant to the order of August 4, 1977, to the Committees on Budget and Governmental Affairs, with instructions that if one Committee reports, the other Committee have thirty days to report or be discharged.

A BILL

To amend the Congressional Budget and Impoundment Control Act of 1974 to provide for the expedited consideration of certain proposed rescissions of budget authority and certain tax expenditure repeals.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the "Expedited Consider-
5 ation of Proposed Rescissions Act of 1993".

1 SEC. 2. EXPEDITED CONSIDERATION OF CERTAIN PRO-
2 POSED RESCISSIONS.

3 (a) IN GENERAL.—Part B of title X of the Congres-
4 sional Budget and Impoundment Control Act of 1974 (2
5 U.S.C. 681 et seq.) is amended by redesignating sections
6 1013 through 1017 as sections 1014 through 1018, re-
7 spectively, and inserting after section 1012 the following
8 new sections:

9 “EXPEDITED CONSIDERATION OF CERTAIN PROPOSED
10 RESCISSIONS

11 “SEC. 1013. (a) PROPOSED¹ RESCISSION OF BUDGET
12 AUTHORITY.—In addition to the method of rescinding
13 budget authority specified in section 1012, the President
14 may propose, at the time and in the manner provided in
15 subsection (b), the rescission of any budget authority pro-
16 vided in an appropriations Act. Funds made available for
17 obligation under this procedure may not be proposed for
18 rescission again under this section or section 1012.

19 “(b) TRANSMITTAL OF SPECIAL MESSAGE.—

20 “(1) Not later than 3 days after the date of en-
21 actment of an appropriation Act, the President may
22 transmit to Congress a special message proposing to
23 rescind amounts of budget authority provided in
24 that Act and include with that special message a
25 draft bill or joint resolution that, if enacted, would
26 only rescind that budget authority.

1 “(2) In the case of an appropriation Act that
2 includes accounts within the jurisdiction of more
3 than one subcommittee of the Committee on Appro-
4 priations, the President in proposing to rescind
5 budget authority under this section shall send a sep-
6 arate special message and accompanying draft bill or
7 joint resolution for accounts within the jurisdiction
8 of each such subcommittee.

9 “(3) Each special message shall specify, with
10 respect to the budget authority proposed to be re-
11 scinded, the matters referred to in paragraphs (1)
12 through (5) of section 1012(a).

13 “(c) PROCEDURES FOR EXPEDITED CONSIDER-
14 ATION.—

15 “(1)(A) Before the close of the second day of
16 continuous session of the applicable House after the
17 date of receipt of a special message transmitted to
18 Congress under subsection (b), the majority leader
19 or minority leader of the House of Congress in
20 which the appropriation Act involved originated shall
21 introduce (by request) the draft bill or joint resolu-
22 tion accompanying that special message. If the bill
23 or joint resolution is not introduced as provided in
24 the preceding sentence, then, on the third day of
25 continuous session of that House after the date of

1 receipt of that special message, any Member of that
2 House may introduce the bill or joint resolution.

3 “(B) The bill or joint resolution shall be re-
4 ferred to the Committee on Appropriations of that
5 House. The committee shall report the bill or joint
6 resolution without substantive revision and with or
7 without recommendation. The bill or joint resolution
8 shall be reported not later than the seventh day of
9 continuous session of that House after the date of
10 receipt of that special message. If the Committee on
11 Appropriations fails to report the bill or joint resolu-
12 tion within that period, that committee shall be
13 automatically discharged from consideration of the
14 bill or joint resolution, and the bill or joint resolu-
15 tion shall be placed on the appropriate calendar.

16 “(C) A vote on final passage of the bill or joint
17 resolution shall be taken in that House on or before
18 the close of the 10th calendar day of continuous ses-
19 sion of that House after the date of the introduction
20 of the bill or joint resolution in that House. If the
21 bill or joint resolution is agreed to, the Clerk of the
22 House of Representatives (in the case of a bill or
23 joint resolution agreed to in the House of Represent-
24 atives) or the Secretary of the Senate (in the case
25 of a bill or joint resolution agreed to in the Senate)

1 shall cause the bill or joint resolution to be en-
2 grossed, certified, and transmitted to the other
3 House of Congress on the same calendar day on
4 which the bill or joint resolution is agreed to.

5 “(2)(A) A bill or joint resolution transmitted to
6 the House of Representatives or the Senate pursu-
7 ant to paragraph (1)(C) shall be referred to the
8 Committee on Appropriations of that House. The
9 committee shall report the bill or joint resolution
10 without substantive revision and with or without rec-
11 ommendation. The bill or joint resolution shall be re-
12 ported not later than the seventh day of continuous
13 session of that House after it receives the bill or
14 joint resolution. A committee failing to report the
15 bill or joint resolution within such period shall be
16 automatically discharged from consideration of the
17 bill or joint resolution, and the bill or joint resolu-
18 tion shall be placed upon the appropriate calendar.

19 “(B) A vote on final passage of a bill or joint
20 resolution transmitted to that House shall be taken
21 on or before the close of the 10th calendar day of
22 continuous session of that House after the date on
23 which the bill or joint resolution is transmitted. If
24 the bill or joint resolution is agreed to in that
25 House, the Clerk of the House of Representatives

(in the case of a bill or joint resolution agreed to in the House of Representatives) or the Secretary of the Senate (in the case of a bill or joint resolution agreed to in the Senate) shall cause the engrossed bill or joint resolution to be returned to the House in which the bill or joint resolution originated.

“(3)(A) A motion in the House of Representatives to proceed to the consideration of a bill or joint resolution under this section shall be highly privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

“(B) Debate in the House of Representatives on a bill or joint resolution under this section shall not exceed 4 hours, which shall be divided equally between those favoring and those opposing the bill or joint resolution. A motion further to limit debate shall not be debatable. It shall not be in order to move to recommit a bill or joint resolution under this section or to move to reconsider the vote by which the bill or joint resolution is agreed to or disagreed to.

“(C) Appeals from decisions of the Chair relating to the application of the Rules of the House of

1 Representatives to the procedure relating to a bill or
2 joint resolution under this section shall be decided
3 without debate.

4 “(D) Except to the extent specifically provided
5 in the preceding provisions of this subsection, con-
6 sideration of a bill or joint resolution under this sec-
7 tion shall be governed by the Rules of the House of
8 Representatives.

9 “(4)(A) A motion in the Senate to proceed to
10 the consideration of a bill or joint resolution under
11 this section shall be privileged and not debatable. An
12 amendment to the motion shall not be in order, nor
13 shall it be in order to move to reconsider the vote
14 by which the motion is agreed to or disagreed to.

15 “(B) Debate in the Senate on a bill or joint res-
16 olution under this section, and all debatable motions
17 and appeals in connection therewith, shall not exceed
18 10 hours. The time shall be equally divided between,
19 and controlled by, the majority leader and the mi-
20 nority leader or their designees.

21 “(C) Debate in the Senate on any debatable
22 motion or appeal in connection with a bill or joint
23 resolution under this section shall be limited to not
24 more than 1 hour, to be equally divided between,
25 and controlled by, the mover and the manager of the

1 bill or joint resolution, except that in the event the
2 manager of the bill or joint resolution is in favor of
3 any such motion or appeal, the time in opposition
4 thereto, shall be controlled by the minority leader or
5 his designee. Such leaders, or either of them, may,
6 from time under their control on the passage of a
7 bill or joint resolution, allot additional time to any
8 Senator during the consideration of any debatable
9 motion or appeal.

10 “(D) A motion in the Senate to further limit
11 debate on a bill or joint resolution under this section
12 is not debatable. A motion to recommit a bill or joint
13 resolution under this section is not in order.

14 “(d) AMENDMENTS PROHIBITED.—No amendment
15 to a bill or joint resolution considered under this section
16 shall be in order in either the House of Representatives
17 or the Senate. No motion to suspend the application of
18 this subsection shall be in order in either House, nor shall
19 it be in order in either House to suspend the application
20 of this subsection by unanimous consent.

21 “(e) REQUIREMENT TO MAKE AVAILABLE FOR OBLI-
22 GATION.—Any amount of budget authority proposed to be
23 rescinded in a special message transmitted to Congress
24 under subsection (b) shall be made available for obligation
25 on the day after the date on which either House defeats

1 the bill or joint resolution transmitted with that special
2 message.

3 “(f) DEFINITIONS.—For purposes of this section—

4 “(1) the term ‘appropriation Act’ means any
5 general or special appropriation Act, and any Act or
6 joint resolution making supplemental, deficiency, or
7 continuing appropriations; and

8 “(2) continuity of a session of either House of
9 Congress shall be considered as broken only by an
10 adjournment of that House sine die, and the days on
11 which that House is not in session because of an ad-
12 journment of more than 3 days to a date certain
13 shall be excluded in the computation of any period.

14 “EXPEDITED CONSIDERATION OF CERTAIN PROPOSED
15 REPEALS OF TAX EXPENDITURES

16 “SEC. 1013A. (a) PROPOSED REPEAL OF TAX EX-
17 PENDITURE.—The President may propose, at the time
18 and in the manner provided in subsection (b), the repeal
19 of any provision in an Act that would result in a tax ex-
20 penditure.

21 “(b) TRANSMITTAL OF SPECIAL MESSAGE.—

22 “(1) Not later than 3 days after the date of en-
23 actment into law of an Act containing a provision
24 described in subsection (a), the President may trans-
25 mit to Congress a special message proposing to re-
26 peal any such provision contained in that Act and

1 include with that special message a draft bill or joint
2 resolution that, if enacted, would repeal such provi-
3 sion.

4 “(2) Each special message shall include, with
5 respect to the provision proposed to be repealed, a
6 budget analysis of such provision.

7 “(c) PROCEDURES FOR EXPEDITED CONSIDER-
8 ATION.—Each special message transmitted pursuant to
9 subsection (b) shall be considered in accordance with the
10 procedures provided for special messages in section
11 1013(d).

12 “(d) DEFINITION.—For purposes of this section, the
13 term ‘tax expenditure’ shall have the meaning given such
14 term in section 3(3) of the Congressional Budget Act of
15 1974.”.

16 (b) EXERCISE OF RULEMAKING POWERS.—Section
17 904 of such Act (2 U.S.C. 621 note) is amended—

18 (1) by striking “and 1017” in subsection (a)
19 and inserting “1013, 1013A, and 1018”; and

20 (2) by striking “section 1017” in subsection (d)
21 and inserting “sections 1013, 1013A, and 1018”.

22 (c) CONFORMING AMENDMENTS.—

23 (1) Section 1011 of such Act (2 U.S.C. 682(5))
24 is amended—

1 (A) in paragraph (4), by striking "1013"
2 and inserting "1014"; and

3 (B) in paragraph (5)—

4 (i) by striking "1016" and inserting
5 "1017"; and

6 (ii) by striking "1017(b)(1)" and in-
7 serting "1018(b)(1)".

8 (2) Section 1015 of such Act (2 U.S.C. 685)
9 (as redesignated by section 2(a)) is amended—

10 (A) by striking "1012 or 1013" each place
11 it appears and inserting "1012, 1013, or
12 1014";

13 (B) in subsection (b)(1), by striking
14 "1012" and inserting "1012 or 1013";

15 (C) in subsection (b)(2), by striking
16 "1013" and inserting "1014"; and

17 (D) in subsection (e)(2)—

18 (i) by striking "and" at the end of
19 subparagraph (A);

20 (ii) by redesignating subparagraph
21 (B) as subparagraph (C);

22 (iii) by striking "1013" in subpara-
23 graph (C) (as so redesignated) and insert-
24 ing "1014"; and

12

1 (iv) by inserting after subparagraph

2 (A) the following new subparagraph:

3 “(B) he has transmitted a special message
4 under section 1013 with respect to a proposed
5 rescission; and”.

6 (3) Section 1016 of such Act (2 U.S.C. 686)
7 (as redesignated by section 2(a)) is amended by
8 striking “1012 or 1013” each place it appears and
9 inserting “1012, 1013, or 1014”.

10 (d) CLERICAL AMENDMENTS.—The table of sections
11 for subpart B of title X of such Act is amended—

12 (1) by redesignating the items relating to sec-
13 tions 1013 through 1017 as items relating to sec-
14 tions 1014 through 1018; and

15 (2) by inserting after the item relating to sec-
16 tion 1012 the following new item:

“Sec. 1013. Expedited consideration of certain proposed rescissions.”.

17 **SEC. 3. TERMINATION.**

18 The authority provided by section 1013 and 1013A
19 of the Congressional Budget and Impoundment Control
20 Act of 1974 (as added by section 2) shall terminate effec-
21 tive on the date in 1994 on which Congress adjourns sine
22 die.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. COHEN:

S. 740. A bill to amend the Congressional Budget and Impoundment Control Act of 1974 to provide for the expedited consideration of certain proposed rescissions of budget authority and certain tax expenditure repeals; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, with instructions that if one Committee reports, the other Committees have thirty days to report or be discharged.

[From the Congressional Record pages S4407-4408]

EXPEDITED RESCISSION LEGISLATION

Mr. COHEN. Mr. President, last week I offered an amendment to the budget resolution calling for expedited rescission authority. I was pleased that 64 of my colleagues joined me in opposing a motion to table the amendment.

Yesterday, Senator CRAIG and I introduced legislation to give the President expedited rescission authority. The Craig-Cohen bill is a companion bill to the one introduced by Congressman STENHOLM in the House and would apply to appropriation measures only.

I am now introducing legislation that would grant expedited rescission authority to both appropriations and tax expenditures.

Under current law, a rescission request does not take effect unless Congress affirmatively approves the request within 45 days. The Congress can—and often does—choose simply to ignore these requests, allowing them to wither on the vine.

Rescission authority needs to be strengthened for it to be more effective in reducing Government waste. The question, of course, is what is the best way to strengthen rescission authority without undermining the balance of powers between the legislative and executive branches.

One way to expand rescission authority without upsetting the balance of power is through expedited rescission authority. Under this authority, Congress would be required to vote on rescission requests within 20 days. Rescissions would not take effect without congressional approval, but Congress could no longer simply choose to ignore rescission requests.

There is broad bipartisan support for expedited rescission.

The expedited rescission authority we are calling for is similar to the bill passed by the House last year by an overwhelming vote of 312 to 97. Congressman STENHOLM has reintroduced this legislation, and the House is expected to vote on this bill as early as today.

In his 1988 budget, President Reagan proposed “a change of law that would require the Congress to vote ‘up or down’ on any proposed rescission, thereby preventing the Congress from ducking the issue by simply ignoring the proposed rescission and avoiding a recorded vote.”

Last November, then President-elect Clinton expressed an interest in the expedited rescission bill that passed the House last year.

In President Clinton's words, expedited rescission is "functionally almost identical" to the procedures he used as Governor of Arkansas to reduce wasteful spending.

Last month, two scholars—Thomas Mann of the Brookings Institute and Norman Ornstein of the American Enterprise Institute—endorsed expedited rescission in their testimony before the Joint Committee on the Organization of Congress of which I am a member.

Past efforts to strengthen rescission authority have been criticized because they would effect appropriated spending only. I think those criticisms are legitimate. Wasteful spending is not limited to appropriations bills. Tax expenditures, as my colleague from New Jersey, Senator BRADLEY, recently pointed out in the Wall Street Journal, also have been a source of wasteful spending. A wasteful tax credit is no different than a wasteful appropriation and, as such, should be subject to rescission authority.

Expedited rescission authority will not significantly reduce the deficit, and we certainly do not offer this proposal as a panacea to deficit reduction. Much harsher medicine will have to be swallowed to achieve that goal. By the same token, we should employ every possible tool in our efforts to reduce the deficit. I think expedited rescission should be one of those tools.

I realize that expedited rescission does not go far enough for some of my colleagues and goes too far for others. For this very reason, expedited rescission offers a responsible and workable alternative to both the status quo and proposals that would shift too much power to the President.

Last November, the American people voted for increased accountability in Washington. Expedited rescission provides greater accountability by requiring Congress to vote on rescission requests. Congress would no longer be able to duck the tough votes.

Expedited rescission by itself will not balance the budget, but it will enhance accountability and reduce Government waste. I believe it is a step in the right direction and urge my colleagues to support expedited rescission authority when it comes before the Senate.

March 22, 1994

[From the Congressional Record pages S3446-3448]

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. LOTT (for himself, Mr. SHELBY, Mr. HATCH, Mr. BROWN, Mr. BURNS, Mr. COATS, Mr. COVERDELL, Mr. DOLE, Mr. GRASSLEY, Mr. GREGG, Mr. HELMS, Mrs. KASSEBAUM, Mr. MACK, Mr. MCCAIN, Mr. NICKLES, Mr. SIMPSON, and Mr. SMITH):

S. 1955. A bill to amend the Congressional Budget and Impoundment Control Act of 1974 to reform the budget process, and for

other purposes; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, with instructions that if one committee reports, the other committee has 30 days to report or be discharged.

BUDGET PROCESS REFORM ACT

Mr. LOTT. Mr. President, today as we begin debate on the budget resolution for the next fiscal year, I think it is appropriate that we also think at this time about the need for budget process reform.

Twenty years, ago, we passed the Congressional Budget and Impoundment Control Act of 1974. I supported it at that time because I thought we needed some process to take a look at how much we were spending, what it was going for, and just basically adding up what we were doing. Up until that time, there was no budget. We had authorization bills and appropriations bills out of the various subcommittees of Appropriations Committee, and nobody ever added them up to see what we were spending really, in total, and what it was doing to the deficit.

So we passed the Budget and Impoundment Control Act, and I thought it was a good idea at the time. This bill established our basic budget process as we know it today. Twenty years has been long enough to see what has worked and what has not worked. Some of it has been fine; some of it has not accomplished all we would like for it to have accomplished. So, as the old adage says, "Hindsight is 20/20." It is time for us to take advantage of what we can see behind us, learn from it, and make some changes.

As we consider this fiscal year 1995 budget, we should also make significant changes in the budget process that the Budget Act, the Budget and Impoundment Control Act, established in 1974.

That is why I am introducing a bill today to overhaul the Federal budget process, along with a number of our colleagues, including Democrats and Republicans. Process reform may not seem very glamorous. Indeed, it is not. But it is the foundation upon which all of our annual spending and taxing decisions are made. Without a strong foundation, a house will not stand.

There are two fundamental components of the budget which must be addressed to achieve effectiveness and efficiency in budgeting, as well as deficit reduction. After all, that should be our goal.

As we debate the budget, we will see this week that as a matter of fact we continue to have deficits every year, and the debt continues to go up every year. In fact, it will go up, some estimate, to \$5 trillion over the next 5 years unless we find some way to better address the problem.

But the two components of the budget go hand in hand. The first is the process for development and implementation of a budget, and the second is the actual determination of the taxing and spending levels within that budget.

This bill addresses the first component, process reform, as its title, "The Budget Process Reform Act," indicates. I am introducing this bill with my friend Senator SHELBY and 15 other original Senate cosponsors. This bill would radically change the way Congress does business.

With budget reform in place, we could then effectively administer the second component of budgeting, the resource allocation process: where and how much to we spend of the taxpayers money. We will have a structure designed to permit clear, rational, and accountable choices among competing priorities.

That is the difficult part. If we would just basically says we have this much coming in, and that is all we are going to spend, there would be a ferocious debate about what our priorities would be and how we would spend that money.

But that is what we are here for, and in the end we could make, I think, rational decisions about our priorities for spending and keep the budget deficits and eventually the debt under control.

I do think deficits matter, and as far as pointing fingers, I am not doing that. I think we all have contributed to this problem. But I think instead of looking back at the past, and how we got here, we need to be looking forward to how we stop this problem.

I believe the momentum behind the balanced budget amendment, which we have debated and which got a very strong vote—it came within four votes in the Senate, and I believe five votes in the House of Representatives—is an indication of a continuing and, I believe, growing concern about this problem.

Our Nation is facing a fiscal crisis. Our deficit for fiscal year 1993 was \$255 billion. Our debt for fiscal year 1994 is projected to be \$4.734 trillion. That is \$13,345 for every man, women, and child in America. We must do something about this.

Why are we debating these types of changes? Because Congress needs handcuffs. Unfortunately, Congress has not been willing to make the tough choices and cut spending enough.

There have been some starts and fits and stops, back and forth, and we have accomplished some things. I remember in 1981 and 1982, we actually cut the deficit some. Last year, the process I think actually did contribute to cutting the deficit some. I objected because I thought too much of it was done in the tax area. But the net result was that we still have not made enough tough choices to deal with the problem.

I can understand why each one of us were sent here by constituencies to protect the interests of our various States. In my own State, we have a lot of poverty; we have a lot of needs. We need better roads. We need better schools. Naturally, I am interested in trying to help my State with those needs.

Putting procedural changes in place such as the balanced budget amendment and some of the provisions of this bill would force Congress to be more responsible stewards of our constituents' hard-earned money.

I do want to point out that even if we had a budget surplus, I would still believe the changes in this bill are necessary. The system needs to be tweaked. As it stands currently, it does not allow the budget to reflect the current priorities of our Nation.

This bill was also introduced in the House by my friend Congressman CHRIS COX. He and Congressman CHARLES STENHOLM have worked very hard on this and there are now over 160 cosponsors in the House.

The bill will achieve the following objectives: simplification of the process, a shift from its current bias toward higher spending, and compliance with current law.

The Budget Process Reform Act would accomplish these goals through the following specific provisions:

First, it requires the budget resolution to be a joint one, voted on by April 15. Making it legally binding by requiring the President's signature will involve the President in the process at an early stage and ensure a shared effort.

I think that would be very important. You may say: Well, this President is not involved. But maybe he is more than others. I think until we get this requirement for a joint resolution, the President will not be as involved. We really need him.

The bill espouses a wise concept: Budget first, spend second. No spending bills—either authorizations or appropriations—could be considered prior to passage of the budget resolution. This will allow spending bills to move through the appropriations process in a logical and timely manner.

Second, the bill forces overall spending decisions to be made at a macro level. This year's budget is 4 volumes, 2,013 pages, and weighs 6 pounds.

How many of us are actually going to read it?

It takes a budget guru just to figure out what we're spending on a specific program. Our system seems designed to keep us all confused.

This bill would simplify the budget process by first requiring a 1-page budget document reflecting the total spending levels in the 19 summary categories currently used.

This would facilitate an easier decisionmaking process and the ability to prioritize—and see—where we are spending the American taxpayers' money.

We should not get bogged down in the details. That job belongs to the authorizers and appropriators.

The budget would also set ceilings on all Federal spending for the coming fiscal year, except for Social Security and interest on the debt. The bill does not say what those ceilings would be, but merely that Congress would set them and then live by them.

The President would be required to submit the detailed support 2 weeks later, after the overall spending decisions had been addressed.

The bill would eliminate baseline budgeting as we know it. This concept of budgeting allows automatic spending increases every year. This is the only place I know in the world where you allow for an increase and then you begin deciding how much you are going to add to that from that particular point.

I believe there are two fundamental problems with this: First, this means spending automatically goes up every year. Period. Second, this does not allow Congress to make decisions about where we should spend more or less.

I think anyone who considers this issue in terms of their own financial position would agree that this is poor policy and it is not even honest. For instance, how many of you automatically plan to spend 3 or 4 percent—or whatever the annual inflation rate is—more each year than you did the year before?

I was very encouraged by the vote on this issue in the Senate Budget Committee markup last Thursday. The Budget Committee voted 15 to 5 for a sense-of-the-Congress to eliminate baseline budgeting. This provision was also included in the House passed budget resolution. This is a change whose time has come. I urge that we adopt this provision.

The bill also contains a bias in favor of spending constraint which is in sharp contrast to our current situation. Any spending which exceeds the caps set in the budget resolution would be subject to a three-fifth's vote of the Senate. Thus, the only way to adopt spending proposals by simple majority would be to authorize and appropriate within the ceilings of a duly enacted budget law.

Additionally, the ceilings on spending would also apply to entitlements. Again, this merely means that Congress would decide on specific spending totals for these programs. Congress has abdicated their control over the largest Government programs. As a result, these programs have grown uncontrollably. We must reign them in and make conscious decisions about the Government spending instead of just signing the blank check year after year.

The head of each executive agency that administers any entitlement program would be authorized to adjust benefit levels and eligibility requirements, so that the program costs exactly what Congress has appropriated and no more.

To maintain the integrity of congressional control over the legislative process, the CBO—rather than the OMB—would be the scorekeeper for determining whether particular authorization and appropriations measures were consistent with the budget ceilings. In his State of the Union speech last year, President Clinton said that the CBO should be the official scorekeeper. I do not have any bias for CBO. In fact, I have a lot of reservations about it. But, we need to decide who it is going to be, so we will have consistent numbers.

President Clinton has also repeatedly stated his support for the line item veto. This bill would give it to him. Why shouldn't the President of the United States have the same ability as 43 Governors to reduce targeted, pork-barrel projects?

This bill gives the President the authority to rescind over-budget spending unless Congress were to enact legislation expressly overturning it. This gives the President the power to selectively reduce individual programs by a percentage, leaving intact some portions of programs budgeted by Congress if he chooses. This would help control spending.

The bill also precludes the need for continuing resolutions by automatically reverting any unfinished appropriations bills to the prior year's spending level. It amazes me, by law, Congress is to finish all appropriations bills by June 30. Yet, every year we miss this legal deadline and are forced to pass continuing resolutions because we can't get our work done in a timely manner. Various Government agencies and programs do not know whether they are going to be able to continue or not. We always talk about shutting down the Washington Monument. It is time to stop that insanity.

This provision of the bill will prevent actual or threatened annual shutdowns of the Federal Government.

In addition, this reversion would encourage spending restraint—if no action were taken on the appropriations bills, spending would not increase from year to year.

In conclusion, through the Budget Process Reform Act we will enforce the law. We will require cooperation between the President and Congress. We will bring entitlement programs under budget control. Above all, we will make the system clear and understandable to the people whose money we are spending.

As we annually translate our Nation's priorities into a Federal budget, we can use this new process to both plan and discipline our spending while still achieving our goals. The final result will be a meaningful budget which allows Congress to focus on the effects of the bottom line on the economy and on the tradeoffs which must be made among priorities to control overall levels of spending.

This is a bipartisan plan. In preparing this legislation, we drew upon the experience and ideas of Democratic and Republican administration officials, congressional leaders, and academic experts across the past seven decades. This bill is a good starting point for real deficit reduction.

It sets the mechanisms in place to facilitate a more efficient and effective budget system.

I am hopeful that the grounds swell of support for reform will enable us to get this bill through this Congress. We need to put aside old ways of thinking and doing things. I believe Congress can do what it must do. We can win back the people's trust.

Our fiscal problems are not unsurmountable. A child must learn to step before he walks, and walk before he runs.

I remind my colleagues of a quote by St. Francis of Assisi:

"Start by doing what's necessary; then do what is possible; and suddenly you are doing the impossible."

So I urge my colleagues to join me and the cosponsors of this bill in taking this step towards restoring fiscal responsibility, discipline, and accountability.

Mr. President, I ask unanimous consent that the Budget Process Reform Act be printed in its entirety at the conclusion of my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

103D CONGRESS
2D SESSION

S. 1955

To amend the Congressional Budget and Impoundment Control Act of 1974 to reform the budget process, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 22 (legislative day, FEBRUARY 22), 1994

Mr. LOTT (for himself, Mr. SHELBY, Mr. HATCH, Mr. BROWN, Mr. BURNS, Mr. COATS, Mr. COVERDELL, Mr. DOLE, Mr. GRASSLEY, Mr. GREGG, Mr. HELMS, Mrs. KASSEBAUM, Mr. MACK, Mr. MCCAIN, Mr. NICKLES, Mr. SIMPSON, and Mr. SMITH) introduced the following bill; which was read twice and referred jointly pursuant to the order of August 4, 1977, to the Committees on the Budget and Governmental Affairs, with instructions that if one committee reports, the other committee have thirty days to report or be discharged

A BILL

To amend the Congressional Budget and Impoundment Control Act of 1974 to reform the budget process, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) **SHORT TITLE.**—This Act may be cited as the
5 “Budget Process Reform Act”.

6 (b) **TABLE OF CONTENTS.**—The table of contents for
7 this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—STATEMENT OF CONGRESSIONAL PURPOSE

Sec. 101. Improvement in decisionmaking process.

Sec. 102. Reform of fiscal management.

Sec. 103. Safeguards against delay and inaction.

TITLE II—BINDING BUDGET LAW

Sec. 201. Joint resolution establishing binding budget law.

Sec. 202. Budget required before spending bills may be considered.

Sec. 203. “baseline” budgeting prohibited; unadjusted year-to-year comparisons required in budget law.

Sec. 204. President’s budget submissions.

TITLE III—ENFORCEMENT MECHANICS

Subtitle A—Supermajority Required to Break Budget Law

Sec. 301. Three-fifths requirement for all spending bills in absence of budget law.

Sec. 302. Three-fifths requirement for over-budget spending bills.

Sec. 303. Three-fifths requirement for waiver of this Act.

Subtitle B—Limited Enhanced Rescission Authority

Sec. 304. Rescission authority limited to spending above limits of congressional budget law.

Sec. 305. Application.

Subtitle C—“Blank Check” Appropriations Prohibited

Sec. 306. Intent of Senate.

Sec. 307. Fixed-dollar appropriations required.

Sec. 308. Agency-adjusted benefits.

Sec. 309. Budget authority and entitlement authority may cover only a single fiscal period.

Subtitle D—“Pay As You Go” Requirement for New Spending

Sec. 310. Spending offsets required.

Sec. 311. Three-fifths vote required to waive point of order.

TITLE IV—SUSTAINING MECHANISM

Sec. 401. Automatic continuing resolution.

Sec. 402. Contingency regulations.

Sec. 403. Unauthorized appropriations prohibited.

TITLE V—PROTECTION OF SOCIAL SECURITY

Sec. 501. Benefits protected against deficit reduction.

Sec. 502. Conforming amendment.

TITLE VI—TIMETABLE

Sec. 601. Revision of timetable.

TITLE VII—CONFORMING AMENDMENTS

3

- Sec. 701. Conforming and technical amendments changing "concurrent" to "joint" resolutions.
 Sec. 702. Further conforming and technical amendments.
 Sec. 703. Conforming amendments to the Impoundment Control Act of 1974.
 Sec. 704. Conforming amendment to title 31, United States Code.

TITLE VIII—DEFINITIONS AND RULES OF INTERPRETATION

- Sec. 801. Definitions.
 Sec. 802. Amendments to Congressional Budget and Impoundment Control Act of 1974.
 Sec. 803. Use of terms.

TITLE IX—EFFECTIVE DATE

- Sec. 901. General provision.
 Sec. 902. Fiscal year 1993.

TITLE I—STATEMENT OF CONGRESSIONAL PURPOSE

SEC. 101. IMPROVEMENT IN DECISIONMAKING PROCESS.

Because the Federal budget process is the principal vehicle by which many of the most fundamental policy choices in Government are made, the purpose of this Act is to facilitate rational, informed, and timely decisions by the Congress in the course of that process.

SEC. 102. REFORM OF FISCAL MANAGEMENT.

It is the sense of the Congress that a properly functioning Federal budget process should focus the attention of policymakers and the public on the aggregate impact of Federal spending on the economy, and on the tradeoffs that must be made among priorities in order to control overall levels of spending. To this end, the Act is intended to establish a budget process that, in each fiscal period—

4

1 (1) requires the adoption of a budget before,
2 not after, any spending begins;

3 (2) produces decisions on that budget early in
4 the budgeting cycle;

5 (3) encourages cooperation between Congress
6 and the President in adopting the budget;

7 (4) ties each subsequent spending decision to
8 an overall, binding budget total;

9 (5) requires regular, periodic decisions on ap-
10 propriate spending levels for all Federal programs,
11 not just those arbitrarily deemed “controllable”; and

12 (6) produces a bias in favor of fiscal respon-
13 sibility that can be overcome only if the Congress ex-
14 pressly determines to do so.

15 **SEC. 103. SAFEGUARDS AGAINST DELAY AND INACTION.**

16 The Congress further finds that a properly function-
17 ing budget process should contain safeguards against
18 delay and inaction, so that temporary shut-downs of the
19 Federal Government may be avoided when the President
20 and the Congress fail to complete work on the budget prior
21 to the beginning of a fiscal period. Accordingly, this Act
22 is intended to provide an enforcement mechanism that
23 gives meaning and importance to the timely adoption of
24 a budget, and a sustaining mechanism that ensures a con-

1 tinuation of the Government should the political process
2 produce deadlock or a failure to act in a timely fashion.

3 **TITLE II—BINDING BUDGET LAW**

4 **SEC. 201. JOINT RESOLUTION ESTABLISHING BINDING** 5 **BUDGET LAW.**

6 To encourage early consultation and cooperation be-
7 tween the Congress and the President on decisions con-
8 cerning overall spending levels for all Federal programs,
9 the Congress shall enact a binding budget law, in the form
10 of a joint resolution, by April 15 of the calendar year be-
11 fore that in which the fiscal period commences. The tech-
12 nical amendments contained in title VI and section 701
13 of this Act are intended to assist in the establishment of
14 this requirement. The budget law itself shall fit on a single
15 page, which sets forth specific budget ceilings in the fol-
16 lowing 19 major functional categories, which together
17 comprise the entire Federal budget.

18 Function 050: National Defense

19 Function 150: International Affairs

20 Function 250: General Science, Space and
21 Technology

22 Function 270: Energy

23 Function 300: Natural Resources and Environ-
24 ment

25 Function 350: Agriculture

1 Function 400: Transportation

2 Function 450: Community and Regional Devel-
3 opment

4 Function 500: Education, Training, Employ-
5 ment and Social Services

6 Function 550: Health

7 Function 570: Medicare

8 Function 600: Income Security

9 Function 650: Social Security

10 Function 700: Veterans Benefits and Services

11 Function 750: Administration of Justice

12 Function 800: General Government

13 Function 900: Net Interest

14 Function 920: Allowances

15 Function 950: Undistributed Offsetting Re-
16 ceipts.

17 By thus requiring that the budget process begin with
18 highly generalized macroeconomic decisions about spend-
19 ing in 19 overall categories, this section is intended to fa-
20 cilitate agreement within Congress itself, and between
21 Congress and the President, on how much the Federal
22 Government should spend in the ensuing fiscal period.

1 **SEC. 202. BUDGET REQUIRED BEFORE SPENDING BILLS**
2 **MAY BE CONSIDERED.**

3 Unless and until a joint resolution on the budget is
4 enacted with respect to any major functional category for
5 a fiscal period, it shall not be in order in either the House
6 of Representatives or the Senate, or any committee or sub-
7 committee thereof, to consider any spending bill affecting
8 spending in that category, except as provided in Title III
9 of this Act. The purpose of this provision is to ensure that
10 until the budget is signed into law, no authorization or
11 appropriations bill shall be considered in the Congress.

12 **SEC. 203. "BASELINE" BUDGETING PROHIBITED;**
13 **UNADJUSTED YEAR-TO-YEAR COMPARISONS**
14 **REQUIRED IN BUDGET LAW.**

15 Section 301(e) of the Congressional Budget Act of
16 1974 is amended by—

17 (1) inserting after the second sentence the fol-
18 lowing: "The starting point for any deliberations in
19 the Committee on the Budget of each House on the
20 joint resolution on the budget for the next fiscal pe-
21 riod shall be the estimated level of outlays for the
22 current period in each function and subfunction.
23 Any increases or decreases in the Congressional
24 budget for the next fiscal period shall be from such
25 estimated levels.";

1 (2) striking paragraphs (2) and (3) and insert-
2 ing the following:

3 “(2) a comparison of levels for the current fis-
4 cal period with proposed spending for the subse-
5 quent fiscal periods along with the proposed increase
6 or decrease of spending in percentage terms for each
7 function and subfunction;

8 “(3) information, data, and comparisons indi-
9 cating the manner in which, and the basis on which,
10 the committee determined each of the matters set
11 forth in the joint resolution, including information
12 on outlays for the current fiscal period and the deci-
13 sions reached to set funding for the subsequent fis-
14 cal years;”;

15 (3) inserting “and” after the semicolon in para-
16 graph (7);

17 (4) striking paragraph (8); and

18 (5) redesignating paragraph (9) as paragraph
19 (8).

20 The technical amendments contained in sections
21 702(g) and 704(b) of this Act are intended to apply the
22 same prohibition against “baseline” budgeting to the
23 budgets prepared by the President and the Congressional
24 Budget Office reports to the Budget Committees.

1 **SEC. 204. PRESIDENT'S BUDGET SUBMISSIONS.**

2 On or before the fifteenth day after a joint resolution
3 on the budget is enacted, the President shall submit to
4 the Congress a detailed budget for the fiscal period begin-
5 ning on October 1 of the current calendar year, including
6 all summaries and explanations required under section
7 1105(a) of title 31, United States Code.

8 **TITLE III—ENFORCEMENT**
9 **MECHANICS**

10 **Subtitle A—Supermajority**
11 **Required to Break Budget Law**

12 **SEC. 301. THREE-FIFTHS REQUIREMENT FOR ALL SPEND-**
13 **ING BILLS IN ABSENCE OF BUDGET LAW.**

14 Unless and until a joint resolution on the budget is
15 enacted with respect to any major functional category for
16 a fiscal period, it shall not be in order in the Senate or
17 any committee or subcommittee thereof, to consider any
18 spending bill affecting spending in that category unless it
19 is approved by the affirmative vote of three-fifths of the
20 Members voting, a quorum being present.

21 **SEC. 302. THREE-FIFTHS REQUIREMENT FOR OVER-BUDG-**
22 **ET SPENDING BILLS.**

23 (a) DETERMINATION OF BUDGET EFFECT OF ALL
24 PROPOSED SPENDING BILLS.—The Congressional Budget
25 Office shall provide to the Senate (or the appropriate com-
26 mittee, subcommittee, or conference thereof) as soon as

1 practicable after the introduction of any spending bill, its
2 estimate of the costs in each major functional category
3 attributable to that bill during the fiscal period in which
4 it is to become effective and in each of the next 4 fiscal
5 years, together with the basis for such estimate. The Con-
6 gressional Budget Office report shall not be required, how-
7 ever, if the Congressional Budget Office certifies that a
8 spending bill will likely result in applicable costs of less
9 than \$10,000,000. For purposes of estimating the costs
10 attributable to any spending bill that includes new credit
11 authority, the report shall deem the market value of any
12 loan (if it were sold by the Federal Government) or the
13 assumption cost of any guarantee (if it were assumed at
14 market rates) to be the costs attributable to such loan or
15 guarantee in the fiscal period in which it is made.

16 (b) CBO REPORT REQUIRED BEFORE CONSIDER-
17 ATION OF SPENDING BILLS.—It shall not be in order in
18 the Senate, or in any committee thereof, to consider any
19 spending bill, unless and until the report referred to in
20 subsection (a) has been made available to the Senate or
21 the appropriate committee or subcommittee thereof.

22 (c) THREE-FIFTHS REQUIREMENT FOR ALL OVER-
23 BUDGET SPENDING BILLS.—It shall not be in order in
24 the Senate (or in any committee, subcommittee, or con-
25 ference) to consider any spending bill for a fiscal period

1 that the report referred to in subsection (a) indicates
2 would in such fiscal period exceed a budget ceiling, unless
3 such bill is approved by the affirmative vote of three-fifths
4 of the Members voting, a quorum being present.

5 (d) DETERMINATION OF SPENDING IN A CAT-
6 EGORY.—A spending bill shall be deemed to break a budg-
7 et ceiling if—

8 (1) its cost in any major functional category as
9 estimated in the report referred to in subsection (a);
10 and

11 (2) all other budget authority, budget outlays,
12 and entitlement authority, if any, in that major
13 functional category for the relevant fiscal period con-
14 tained in any previously enacted legislation for the
15 fiscal period; and

16 (3) to the extent that new budget authority or
17 entitlement authority for the relevant fiscal period
18 has not been granted (or modified from the level of
19 the previous fiscal period) in any other enacted legis-
20 lation for any program within such major functional
21 category, the amounts of budget authority and enti-
22 tlement authority for such major functional category
23 (or part thereof) for the previous fiscal period;
24 exceed the budget ceiling for such major functional cat-
25 egory.

12

1 **SEC. 303. THREE-FIFTHS REQUIREMENT FOR WAIVER OF**
2 **THIS ACT.**

3 No waiver of any provision of this Act, including the
4 calendar deadlines for completion of Congressional action
5 and the provisions concerning over-budget spending, shall
6 be effective unless approved by the affirmative vote of
7 three-fifths of the Members of the Senate, a quorum being
8 present. No committee of the Senate shall have jurisdic-
9 tion to report a rule governing procedures for consider-
10 ation of spending bills covered by this Act, if such rule
11 would violate the provisions of this section. Nothing in this
12 provision shall be deemed to require a supermajority vote
13 to amend this Act.

14 **Subtitle B—Limited Enhanced Rescission**
15 **Authority**

16 **SEC. 304. RESCISSION AUTHORITY LIMITED TO SPENDING**
17 **ABOVE LIMITS OF CONGRESSIONAL BUDGET**
18 **LAW.**

19 The Impoundment Control Act of 1974 (2 U.S.C.
20 681 et seq.) is amended by redesignating sections 1013
21 through 1017 as sections 1014 through 1018, respectively,
22 and inserting after section 1012 the following new section:

23 “RESCISSION OF SPENDING ABOVE LIMITS OF
24 CONGRESSIONAL BUDGET LAW

25 “SEC. 1013. (a) TRANSMITTAL OF SPECIAL MES-
26 SAGE.—The President may transmit to both Houses of

1 Congress for consideration in accordance with this section
2 one or more special messages to rescind (in whole or in
3 part) items of budget authority or entitlement authority
4 sufficient to ensure that the levels of budget authority, en-
5 titlement authority, and outlays in a functional category
6 do not exceed the levels stated in the budget law for the
7 applicable fiscal period (or, in the absence of a budget law,
8 do not exceed such levels in the previous fiscal period).

9 “(b) LIMITATIONS.—For purposes of this section—

10 “(1) continuing appropriations made pursuant
11 to section 1311 of title 31, United States Code, shall
12 be treated as continuing appropriations for an entire
13 fiscal period; and

14 “(2) the levels of budget authority, entitlement
15 authority, and outlays shall be determined on the
16 basis of the reports made by the Congressional
17 Budget Office pursuant to section 202 of the Budget
18 Process Reform Act of 1990.

19 “(c) CONTENTS OF SPECIAL MESSAGE.—Each spe-
20 cial message transmitted under subsection (a) shall speci-
21 fy, with respect to each item of budget authority to be
22 rescinded, the matters referred to in paragraphs (1)
23 through (5) of section 1012(a).

24 “(d) REQUIREMENT NOT TO MAKE AVAILABLE FOR
25 OBLIGATION.—Any item of budget authority to be re-

1 scinded as set forth in such special message shall not be
2 made available for obligation unless, within the prescribed
3 45-day period, Congress completes action on a rescission
4 bill disapproving the rescission of the amount to be re-
5 scinded. Funds made available for obligation under this
6 procedure may not be included in a special message again.

7 “(e) PROCEDURES.—

8 “(1)(A) Before the close of the third day begin-
9 ning after the day on which a special message to re-
10 seind an item of budget authority is transmitted to
11 the House of Representatives and the Senate under
12 subsection (a), a bill may be introduced (by request)
13 by the majority leader or minority leader of the
14 House of the Congress in which the appropriation
15 Act providing the budget authority originated to dis-
16 approve the rescission set forth in the special mes-
17 sage. If such House is not in session on the day on
18 which a special message is transmitted, the bill may
19 be introduced in such House, as provided in the pre-
20 ceding sentence, on the first day thereafter on which
21 such House is in session.

22 “(B) A bill introduced in the House of Rep-
23 resentatives or the Senate pursuant to subparagraph
24 (A) shall be referred to the Committee on Appro-
25 priations of such House. The Committee shall report

1 the bill without substantive revision (and with or
2 without recommendation) not later than 15 calendar
3 days of continuous session of the Congress after the
4 date on which the bill is introduced. A committee
5 failing to report a bill within the 15-day period re-
6 ferred to in the preceding sentence shall be auto-
7 matically discharged from consideration of the bill
8 and the bill shall be placed on the appropriate cal-
9 endar.

10 “(C) A vote on final passage of a bill intro-
11 duced in a House of the Congress pursuant to sub-
12 paragraph (A) shall be taken on or before the close
13 of the 25th calendar day of continuous session of the
14 Congress after the date of the introduction of the
15 bill in such House. If the bill is agreed to, the Clerk
16 of the House of Representatives (in the case of a bill
17 agreed to in the House of Representatives) or the
18 Secretary of the Senate (in the case of a bill agreed
19 to in the Senate) shall cause the bill to be engrossed,
20 certified, and transmitted to the other House of the
21 Congress on the same calendar day on which the bill
22 is agreed to.

23 “(2)(A) A bill transmitted to the House of Rep-
24 resentatives or the Senate pursuant to paragraph
25 (1)(C) shall be referred to the Committee on Appro-

priations of such House. The committee shall report the bill without substantive revision (and with or without recommendation) not later than 10 calendar days of continuous session of the Congress after the bill is transmitted to such House. A committee failing to report the bill within the 10-day period referred to in the preceding sentence shall be automatically discharged from consideration of the bill and the bill shall be placed upon the appropriate calendar.

“(B) A vote on the final passage of a bill transmitted to a House of the Congress pursuant to paragraph (1)(C) shall be taken on or before the close of the 10th calendar day of continuous session of the Congress after the date on which the bill is transmitted to such House. If the bill is agreed to in such House, the Clerk of the House of Representatives (in the case of a bill agreed to in the House of Representatives) or the Secretary of the Senate (in the case of a bill agreed to in the Senate) shall cause the engrossed bill to be returned to the House in which the bill originated, together with a statement of the action taken by the House acting under this paragraph.

1 “(3)(A) A motion in the House of Representa-
2 tives to proceed to the consideration of a bill under
3 this section shall be highly privileged and not debat-
4 able. An amendment to the motion shall not be in
5 order, nor shall it be in order to move to reconsider
6 the vote by which the motion is agreed to or dis-
7 agreed to.

8 “(B) Debate in the House of Representatives
9 on a bill under this section shall be limited to not
10 more than 2 hours, which shall be divided equally
11 between those favoring and those opposing the bill.
12 A motion further to limit debate shall not be debat-
13 able and shall require an affirmative vote of two-
14 thirds of the Members voting, a quorum being
15 present. It shall not be in order to move to recommit
16 a bill under this section or to move to reconsider the
17 vote by which the bill is agreed to or disagreed to.

18 “(C) All appeals from the decisions of the Chair
19 relating to the application of the Rules of the House
20 of Representatives to the procedure relating to a bill
21 under this section shall be decided without debate.

22 “(D) Except to the extent specifically provided
23 in the preceding provisions of this subsection, con-
24 sideration of a bill under this section shall be gov-

1 erned by the Rules of the House of Representatives
2 applicable to other bills in similar circumstances.

3 “(4)(A) A motion in the Senate to proceed to
4 the consideration of a bill under this section shall be
5 privileged and not debatable. An amendment to the
6 motion shall not be in order, nor shall it be in order
7 to move to reconsider the vote by which the motion
8 is agreed to or disagreed to.

9 “(B) Debate in the Senate on a bill under this
10 section, and all debatable motions and appeals in
11 connection therewith, shall be limited to not more
12 than 2 hours. The time shall be equally divided be-
13 tween, and controlled by, the majority leader and the
14 minority leader or their designees.

15 “(C) Debate in the Senate on any debatable
16 motion or appeal in connection with a bill under this
17 section shall be limited to not more than 1 hour, to
18 be equally divided between, and controlled by, the
19 mover and the manager of the bill except that in the
20 event the manager of the bill is in favor of any such
21 motion or appeal, the time in opposition thereto
22 shall be controlled by the minority leader or his des-
23 ignee. Such leaders, or either of them, may, from
24 time under their control on the passage of a bill,

1 allot additional time to any Senator during the con-
2 sideration of any debatable motion or appeal.

3 “(D) A motion in the Senate to further limit
4 debate on a bill under this section is not debatable.
5 A motion to recommit a bill under this section is not
6 in order.

7 “(f) AMENDMENTS PROHIBITED.—No amendment to
8 a bill considered under this section shall be in order in
9 either the House of Representatives or the Senate. No mo-
10 tion to suspend the application of this subsection shall be
11 in order in either House, nor shall it be in order in either
12 House for the presiding officer to entertain a request to
13 suspend the application of this subsection by unanimous
14 consent.”.

15 **SEC. 305. APPLICATION.**

16 The amendments made by section 304 shall apply to
17 items of budget authority (as defined in subsection (g)(1)
18 of section 1013, as added by section 103(b) of this Act)
19 provided by appropriation Acts (as defined in subsection
20 (g)(3) of such section) that become law after the date of
21 enactment of this Act.

1 **Subtitle C—"Blank Check" Appropriations**
2 **Prohibited**

3 **SEC. 306. INTENT OF SENATE.**

4 It is the intent of the Senate, by this provision, to
5 put an end to open-ended, "blank check" appropriations,
6 which typically authorize the spending of "such sums as
7 may be necessary." By requiring explicit decisions con-
8 cerning the desired level of spending for each federal pro-
9 gram (except social security and interest on the debt), it
10 is intended that currently uncontrolled programs will be
11 brought within the discipline of an overall budget.

12 **SEC. 307. FIXED-DOLLAR APPROPRIATIONS REQUIRED.**

13 (a) **FIXED-DOLLAR APPROPRIATIONS.**—For every ac-
14 count except social security and interest on the debt, every
15 appropriation for a fiscal period for any program, project,
16 or activity shall be for a specific, fixed dollar amount. Any
17 appropriations of "such sums as may be necessary" (ex-
18 cept with respect to the automatic continuing resolution
19 provided for by section 401 of this Act) are hereby prohib-
20 ited.

21 (b) **POINT OF ORDER.**—It shall not be in order in
22 the Senate (or in any committee, subcommittee, or con-
23 ference) to consider any appropriation that is in violation
24 of subsection (a).

1 **SEC. 308. AGENCY-ADJUSTED BENEFITS.**

2 The head of each Executive agency that administers
3 any entitlement program is authorized to adjust benefit
4 levels and eligibility requirements, or both, with respect
5 to the program such that aggregate outlays for a fiscal
6 period do not exceed the fixed-dollar appropriation pro-
7 vided pursuant to this title for such fiscal period. Such
8 adjustment shall be made by rule or, pending adoption of
9 appropriate rules, informal guideline. The purpose of any
10 such rule or guideline shall be to ensure that the fixed-
11 dollar appropriations for the program authorized by Con-
12 gress are not exceeded.

13 **SEC. 309. BUDGET AUTHORITY AND ENTITLEMENT AU-**
14 **THORITY MAY COVER ONLY A SINGLE FISCAL**
15 **PERIOD.**

16 Chapter 13 of title 31, United States Code, is amend-
17 ed by inserting after section 1312 the following new sec-
18 tion:

19 **“§ 1313. Budget authority and entitlement authority**
20 **must cover single fiscal period**

21 “(a) Notwithstanding any other provision of law and
22 except as provided by subsection (b), no budget authority
23 or entitlement authority—

24 “(1) enacted on or after the date of enactment
25 of this section shall be effective for more than one
26 fiscal period; or

1 “(2) enacted before the date of enactment of
2 this section shall continue in effect beyond the end
3 of the first fiscal period beginning after the date of
4 enactment of this section.

5 “(b) Subsection (a) does not apply with respect to
6 appropriations for the repayment of indebtedness incurred
7 under chapter 31 or benefits payable under the old-age,
8 survivors, and disability insurance program established
9 under title II of the Social Security Act.”.

10 **Subtitle D—“Pay As You Go” Requirement for**
11 **New Spending**

12 **SEC. 310. SPENDING OFFSETS REQUIRED.**

13 It shall not be in order in the Senate to consider any
14 supplemental appropriation measure, or any other bill,
15 resolution, or amendment which authorizes, requires, or
16 provides new entitlements/mandatory spending as defined
17 in section 3 (12)(A) of the Congressional Budget and Im-
18 poundment Control Act of 1974, or which authorizes
19 spending for a fiscal period that the report referred to in
20 section 302(a) of this Act indicates would in such fiscal
21 period exceed a budget ceiling, unless any such increased
22 spending called for therein is offset fully in each such fis-
23 cal period in such measure, bill, resolution or amendment
24 by an equal amount of reductions in existing spending.

1 **SEC. 311. THREE-FIFTHS VOTE REQUIRED TO WAIVE POINT**
 2 **OF ORDER.**

3 The point of order established by this subtitle may
 4 be waived or suspended in the Senate, and an appeal of
 5 the ruling of the Chair on a point of order raised under
 6 this section may be sustained, only by the affirmative vote
 7 of three-fifths of the Members voting, a quorum being
 8 present.

9 **TITLE IV—SUSTAINING**
 10 **MECHANISM**

11 **SEC. 401. AUTOMATIC CONTINUING RESOLUTION.**

12 Chapter 13 of title 31, United States Code, is amend-
 13 ed by inserting after section 1310 the following new sec-
 14 tion:

15 **“§ 1311. Continuing appropriation**

16 “(a) If for any account an appropriation for a fiscal
 17 period does not become law before the beginning of such
 18 fiscal period, there are hereby appropriated, out of any
 19 moneys in the Treasury not otherwise appropriated, and
 20 out of applicable corporate or other revenues, receipts, and
 21 funds, such sums as may be necessary to continue any
 22 program, project, or activity provide for in the most recent
 23 appropriation Act at a rate of operations not in excess of
 24 the rate of operations provided for such program, project,
 25 or activity in such Act. In no case shall the total dollar
 26 amount of appropriations for any program, project or ac-

1 tivity pursuant to this section exceed the appropriation for
2 such program, project, or activity in the most recent ap-
3 propriation Act, determined on a fiscal-period basis.

4 “(b) Amounts appropriated pursuant to subsection
5 (a) for a program, project, or activity shall be available
6 during a fiscal period until the earlier of—

7 “(1) the day on which the appropriation bill for
8 such fiscal period which would include the program,
9 project, or activity takes effect; or

10 “(2) the last day of such fiscal period.”.

11 **SEC. 402. CONTINGENCY REGULATIONS.**

12 Chapter 13 of title 31, United States Code, is amend-
13 ed by inserting after section 1311 the following new
14 section:

15 **“§ 1312. Contingency regulations**

16 “(a) Notwithstanding any other provisions of law and
17 except as provided by subsection (b), the head of each Ex-
18 ecutive agency that administers any entitlement program
19 shall, by rule, (or informal guideline, pending adoption of
20 appropriate rules), provide for the adjustments of benefit
21 levels or eligibility requirements, or both, with respect to
22 the program such that aggregate outlays for a fiscal period
23 do not exceed the fixed-dollar appropriation provided pur-
24 suant to section 314 (requiring fixed-dollar appropria-

25

1 tions) or section 401 (providing for an Automatic Continu-
2 ing Resolution) of this Act for such fiscal period.

3 “(b) In the case of social safety net programs, the
4 rules shall provide each State the option of receiving an
5 aggregate amount for the fiscal period for such programs
6 equal to the amount it received for the preceding fiscal
7 period for such programs (in which case such State could,
8 in its discretion, allocate the benefits among such pro-
9 grams to best meet the needs of recipients in its State)
10 or the amounts it received for each such program for such
11 preceding fiscal period.

12 “(c) As used in this section—

13 “(1) the term ‘Executive agency’ has the mean-
14 ing given such term in section 105 of title 5, United
15 States Code;

16 “(2) the term ‘entitlement program’ means any
17 spending authority as defined in section
18 401(c)(2)(C) of the Congressional Budget Act of
19 1974; and

20 “(3) the term ‘social safety net programs’
21 means the following programs: family support pay-
22 ments, adoption assistance, child support enforce-
23 ment, food stamps, foster care, medicaid, child nu-
24 trition programs, social services block grant, and
25 supplemental security income (SSI).”.

26

1 **SEC. 403. UNAUTHORIZED APPROPRIATIONS PROHIBITED.**

2 Section 401(b) is amended to read as follows:

3 “(b) CONTROLS ON LEGISLATION PROVIDING FUND-
4 ING.—(1) It shall not be in order in either the House of
5 Representatives or the Senate to consider any bill, resolu-
6 tion, or conference report that provides budget authority
7 or spending authority described in subsection (c)(2)(C) ex-
8 cept a bill or resolution reported by the Committee on Ap-
9 propriations of that House or a conference report made
10 by a committee or conference all of whose conferees are
11 members of the Committee on Appropriations.

12 “(2) Paragraph (1) shall not apply to benefits pay-
13 able under the old-age, survivors, and disability insurance
14 program established under title II of the Social Security
15 Act.”.

16 **TITLE V—PROTECTION OF**
17 **SOCIAL SECURITY**

18 **SEC. 501. BENEFITS PROTECTED AGAINST DEFICIT REDUC-**
19 **TION.**

20 Nothing in this Act shall be construed to require or
21 permit reductions in Social Security benefits otherwise
22 payable pursuant to applicable law or regulations.

23 **SEC. 502. CONFORMING AMENDMENT.**

24 Chapter 13 of title 31, United States Code, is
25 amended by inserting after section 1313 the following new
26 section:

1 “§ 1314. Protection of social security from budget def-
2 icit reduction measures

3 “No reductions in benefits payable under the old-age,
 4 survivors, and disability insurance program established
 5 under title II of the Social Security Act shall be made as
 6 a consequence of the Budget Process Reform Act”.

7 TITLE VI—TIMETABLE

8 SEC. 601. REVISION OF TIMETABLE.

9 Section 300 (2 U.S.C. 631) is amended to read as
 10 follows:

11 “TIMETABLE

12 “SEC. 300. The timetable with respect to the Con-
 13 gressional budget process for any Congress (beginning
 14 with the One Hundred Third Congress) is as follows:

“On or before:	Action to be completed:
First Monday in February	President submits short-form budget recommendations.
February 15	Congressional Budget Office submits report to Budget Committees.
February 25	Committees submit views and estimates to Budget Committees.
March 31	Budget Committees report joint resolution on the budget.
April 15	Congress completes action on joint resolution on the budget and transmits it to the President for signature or veto.
President signs joint resolution, or Congress overrides veto.	Authorization and appropriations bills may be considered in the Congress.
15th day after enactment of joint budget resolution.	President submits complete budget and support documents.
June 10	Appropriations Committees report last of annual appropriation bills.
September 30	Congress completes action on reconciliation legislation and annual appropriation bills.

"On or before:

October 1

Action to be completed:

Fiscal period begins. Congress completes all necessary action on budget, authorizations and appropriations, or automatic continuing resolution takes effect."

TITLE VII—CONFORMING AMENDMENTS

SEC. 701. CONFORMING AND TECHNICAL AMENDMENTS

CHANGING "CONCURRENT" TO "JOINT" RESOLUTIONS.

(a) Sections 300, 301, 302, 303, 304, 305, 308, 310, and 311 (2 U.S.C. 631 et seq.) are amended by striking "concurrent resolutions" each place it appears and by inserting "joint resolution".

(b) The table of contents set forth in section 1(b) is amended by striking "Concurrent" in the items relating to sections 301, 303, and 304 and inserting "Joint".

(c) Clauses 4(a)(2), 4(b)(2), 4(g), and 4(h) of rule X, clause 8 of rule XXIII, and rule XLIX of the Rules of the House of Representatives are amended by striking "concurrent" and by inserting in its place "joint".

(d) Section 258C(b)(1) of the Deficit Control Action of 1985 is amended by striking "concurrent" and by inserting "joint".

SEC. 702. FURTHER CONFORMING AND TECHNICAL AMENDMENTS.

(a) Section 302(f) (2 U.S.C. 633(f)) is amended—

1 (1) in paragraph (1) by striking “(1) IN THE
2 HOUSE OF REPRESENTATIVES.—”, by striking “new
3 budget authority for such fiscal year, new entitle-
4 ment authority effective during such fiscal year, or”
5 and by striking “new discretionary budget authority,
6 new entitlement authority, or”; and

7 (2) by striking paragraph (2).

8 (b) Section 303 is amended—

9 (1) in its heading by striking “NEW BUDGET
10 AUTHORITY, NEW SPENDING AUTHORITY,” and the
11 comma before “OR CHANGES”;

12 (2) in subsection (a) by striking paragraphs
13 (1), (4) and (5) and by redesignating paragraphs
14 (2), (3), and (6) as paragraphs (1), (2), and (3), re-
15 spectively; and

16 (3) in subsection (b) by striking paragraph
17 (1)(A), by striking “(B)”, by striking the dash after
18 “resolution”, and by striking the last sentence.

19 (c) The table of contents set forth in section 1(b) is
20 amended by striking “new budget authority, new spending
21 authority,” and the comma before “or changes” in the
22 item relating to section 303.

23 (d) Section 311 is amended—

24 (1) in its heading by striking “NEW BUDGET
25 AUTHORITY, NEW SPENDING AUTHORITY, AND”;

1 (2) in subsection (a)(1) by striking “providing
2 new budget authority for such fiscal year, providing
3 new entitlement authority effective during such fis-
4 cal year, or”; by striking “the appropriate level of
5 total new budget authority or total budget outlays
6 set forth in the most recently agreed to concurrent
7 resolution on the budget to be exceeded, or”;

8 (3) by repealing subsection (b); and

9 (4) by redesignating subsection (c) as sub-
10 section (b), and by striking “new budget authority,
11 budget outlays, new entitlement authority, and” in
12 subsection (c) (as redesignated).

13 (e) The table of contents set forth in section 1(b) is
14 amended by striking “new budget authority, new spending
15 authority, and” in the item relating to section 311.

16 (f) The last sentence of clause 4(b) of rule XI of the
17 Rules of the House of Representatives is amended by in-
18 serting before the period at the end of the following: “;
19 nor shall it report any rule or order which would waive
20 any point of order set forth in title III of the Budget Proc-
21 ess Reform Act”.

22 (g) The first sentence of section 202(f)(1) of the Con-
23 gressional Budget Act of 1974 is amended to read as fol-
24 lows: “On or before February 15 of each year, the Direc-
25 tor shall submit to the Committees on the Budget of the

1 House of Representatives and the Senate a report, for the
2 fiscal year commencing on October 1 of that year, with
3 respect to fiscal policy, including (A) estimated budget
4 outlays in all functions and subfunctions for appropriated
5 accounts for the current fiscal year and estimated budget
6 outlays under current law for all entitlement programs for
7 the next fiscal year, (B) alternative levels of total reve-
8 nues, total new budget authority, and total outlays (in-
9 cluding related surpluses and deficits), and (C) the levels
10 of tax expenditures under existing law, taking into account
11 projected economic factors and any changes in such levels
12 based on proposals in the budget submitted by the Presi-
13 dent for such fiscal year.”.

14 **SEC. 703. CONFORMING AMENDMENTS TO THE IMPOUND-**
15 **MENT CONTROL ACT OF 1974.**

16 (a) Section 1011(5) (2 U.S.C. 682(5)) is amended—

17 (1) by striking “1012, and” and inserting
18 “1012, the 20-day periods referred to in paragraphs
19 (1)(b) and (2)(A) of section 1013(c), the 45-day pe-
20 riod referred to in section 1013(b), and”;

21 (2) by striking “1012 during” and inserting
22 “1012 or 1013 during”;

23 (3) by striking “of 45” and inserting “of the
24 applicable number of”; and

1 (4) by striking “45-day period referred to in
2 paragraph (3) of this section and in section 1012”
3 and inserting “period or periods of time applicable
4 under such section”.

5 (b) Section 1011 is further amended—

6 (1) in paragraph (4) by striking “1013” and in-
7 serting “1014”; and

8 (2) in paragraph (5)—

9 (A) by striking “1016” and inserting
10 “1017”; and

11 (B) by striking “1017(b)(1)” and inserting
12 “1018(b)(1)”.

13 (c) Section 1015 (as redesignated) is amended—

14 (1) by striking “1012 or 1013” each place it
15 appears and inserting “1012, 1013, or 1014”;

16 (2) in subsection (b)(1) by striking “1012” and
17 inserting “1012 or 1013”;

18 (3) in subsection (b)(2) by striking “1013” and
19 inserting “1014”; and

20 (4) in subsection (e)(1)—

21 (A) by striking “and” at the end of sub-
22 paragraph (A),

23 (B) by redesignating subparagraph (B) as
24 subparagraph (C),

33

1 (C) by striking “1013” in subparagraph
2 (C) (as redesignated), and

3 (D) by inserting after subparagraph (A)
4 the following new subparagraph:

5 “(B) he has transmitted a special message
6 under section 1013 with respect to a proposed
7 rescission; and”.

8 (d) Section 1016 (as redesignated) is amended by
9 striking “1012 or 1013” each place it appears and insert-
10 ing “1012, 1013, or 1014”.

11 (e) Section 1012(b) is amended by inserting before
12 the last sentence the following new sentence: “The preced-
13 ing sentence shall not apply to any item of budget author-
14 ity proposed by the President to be rescinded under this
15 section that the President has also proposed to rescind
16 under section 1013 and with respect to which the 45-day
17 period referred to in subsection (e) of such section has
18 not expired.”.

19 (f) The table of sections set forth in section 1(b) is
20 amended—

21 (1) by redesignating the items relating to sec-
22 tions 1013 through 1017 as items relating to sec-
23 tions through 1018, respectively; and

24 (2) by inserting after the item relating to sec-
25 tion 1012 the following new item:

“Sec. 1013. Rescission of spending above limits of congressional budget law.”.

34

1 **SEC. 704. CONFORMING AMENDMENT TO TITLE 31, UNITED**
2 **STATES CODE.**

3 (a) The analysis of chapter 13 of title 31, United
4 States Code, is amended by inserting after the item relat-
5 ing to section 1310 the following new items:

“Sec. 1311. Continuing appropriation.

“Sec. 1312. Contingency regulations.

“Sec. 1313. Budget authority and entitlement authority must cover single fiscal
period.

“Sec. 1314. Protection of Social Security from budget deficit reduction meas-
ures.”.

6 (b) Paragraph (5) of section 1105(a) of title 31,
7 United States Code, is amended to read as follows:

8 “(5) except as provided in subsection (b) of this
9 section—

10 “(A) estimated expenditures and proposed
11 appropriations for each function and
12 subfunction in the current fiscal year;

13 “(B) estimated expenditures and proposed
14 appropriations the President decides are nec-
15 essary to support the Government for each
16 function and subfunction in the fiscal year for
17 which the budget is submitted; and

18 “(C) a comparison of levels of estimated
19 expenditures and proposed appropriations for
20 each function and subfunction in the current
21 fiscal year and the fiscal year for which the
22 budget is submitted, along with the proposed

1 increase or decrease of spending in percentage
2 terms for each function and subfunction;”.

3 (c) Section 1105(a) of title 31, United States Code,
4 is amended—

5 (1) in the first sentence, by inserting “on a sin-
6 gle page, which sets forth specific budget ceilings for
7 that fiscal period in the nineteen major functional
8 categories described in section 201 of the Budget
9 Process Reform Act” before the period; and

10 (2) by repealing the second sentence and all of
11 the third sentence preceding the colon and inserting
12 the following: “On or before the fifteenth day after
13 a joint resolution on the budget for that budget pe-
14 riod is enacted, the President shall submit a detailed
15 budget for that fiscal period, including a budget
16 message and summary and supporting information,
17 as follows”.

18 **TITLE VIII—DEFINITIONS AND** 19 **RULES OF INTERPRETATION**

20 **SEC. 801. DEFINITIONS.**

21 (a) **DEFINITION OF BUDGET LAW.**—Section 3(4) (2
22 U.S.C. 622(4)), containing general definitions under the
23 Budget Act is amended to read as follows:

24 “(4) The term ‘budget law’ or ‘joint resolution
25 on the budget’ means—

1 “(A) a joint resolution setting forth the
2 simplified budget for the United States Govern-
3 ment for a fiscal period as provided in section
4 301; and

5 “(B) any other joint resolution revising the
6 budget for the United States Government for a
7 fiscal period as described in section 304.”.

8 (b) OTHER DEFINITIONS.—Section 3 (2 U.S.C. 622)
9 is further amended by adding at the end the following new
10 paragraphs:

11 “(11) The term ‘major functional category’ re-
12 fers to the groupings of budget authority, budget
13 outlays, and credit authority (including continuing
14 appropriations pursuant to section 1331 of title 31,
15 United States Code) into any one of the following:

16 “Function 050: National Defense

17 “Function 150: International Affairs

18 “Function 250: General Science, Space
19 and Technology

20 “Function 270: Energy

21 “Function 300: Natural Resources and
22 Environment

23 “Function 350: Agriculture

24 “Function 400: Transportation

1 “Function 450: Community and Regional
2 Development

3 “Function 500: Education, Training, Em-
4 ployment and Social Services

5 “Function 550: Health

6 “Function 570: Medicare

7 “Function 600: Income Security

8 “Function 650: Social Security

9 “Function 700: Veterans Benefits and
10 Services

11 “Function 750: Administration of Justice

12 “Function 800: General Government

13 “Function 900: Net Interest

14 “Function 920: Allowances

15 “Function 950: Undistributed Offsetting
16 Receipts.”.

17 “(12) The term ‘budget ceiling’ means the dol-
18 lar amount set forth in a budget law for a major
19 functional category.

20 “(13) The term ‘spending bill’ means any bill or
21 resolution, or amendment thereto or conference re-
22 port thereon, which provides budget authority,
23 spending authority, credit authority, or outlays.

24 “(14) The term ‘fiscal period’ means the twelve-
25 month fiscal year beginning October 1 currently in

1 use, or any other fiscal period (such as a biennial
2 period) that may subsequently be adopted for the
3 management of the budget of the United States.”.

4 **SEC. 802. AMENDMENTS TO CONGRESSIONAL BUDGET AND**
5 **IMPOUNDMENT CONTROL ACT OF 1974.**

6 Except as otherwise expressly provided, whenever any
7 provision of this Act is expressed as an amendment to a
8 section or other provision, the reference shall be deemed
9 to be made to a section or other provision of the Congres-
10 sional Budget and Impoundment Control Act of 1974.

11 **SEC. 803. USE OF TERMS.**

12 Whenever any term is used in this Act which is de-
13 fined in section 3 of the Congressional Budget Impound-
14 ment Control Act of 1974, the term shall have the mean-
15 ing given to such term in that Act.

16 **TITLE IX—EFFECTIVE DATE**

17 **SEC. 901. GENERAL PROVISION.**

18 Except as provided in section 902, this Act and the
19 amendments made by it shall become effective January 1,
20 1995, and shall apply to fiscal periods beginning after
21 September 30, 1995.

22 **SEC. 902. FISCAL YEAR 1993.**

23 Notwithstanding subsection (a), the provisions of—
24 (1) the Congressional Budget Impoundment
25 Control Act of 1974,

1 (2) title 31, United States Code, and
2 (3) the Balanced Budget and Emergency Defi-
3 cit Control Act of 1985, (as such provisions were in
4 effect on the day before the effective date of this
5 Act) shall apply to the fiscal year beginning on Octo-
6 ber 1, 1994.

[From the Congressional Record pages S3452-3453]

Mr. SHELBY. Mr. President, next year, we will pay close to \$300 billion just on interest on the national debt—\$300 billion. Mr. President. That is about one-fifth of the budget for 1995.

Because we will spend so much on our budget in 1995 on just financing our national debt, just paying the interest alone, not paying anything off, I remain unconvinced that we are on the right track, that we are doing what we need to do to address our chronic deficit and national debt problems.

While CBO's recent projection of the 1995 deficit is lower than originally expected, it does not speak to our long-term deficit and debt future, because we have not changed the way we spend money around here. Our system has not changed; yet, our problems are systemic.

Indeed, Mr. President, although deficit reduction was the justification for last year's tax bill, which raised over \$230 billion in new taxes. Federal spending continues to increase at a progressive rate through the next 5 years. From 1994 through 1998, spending will continue to increase from \$1.5 trillion to \$1.8 trillion.

So, Mr. President, in reality, at the same time Congress was raising new taxes, it was also increasing spending.

Mr. President, I ask you: Is this fiscal restraint? Is this a sign of a Government on a diet? It would not appear so. Rather, it looks more like the kind of diet that ends up putting 10 pounds on you instead of taking 10 pounds off.

Let us not forget spending cuts. The President claims over 300 specific program cuts in the fiscal 1995 budget, and several proposals have been offered over the past few months which would have similarly made specific program cuts in order to lower the deficit.

The fact is, however, Mr. President, that many of these proposals had nothing to do with lowering the deficit. Instead, they would only have authorized a shift in spending. These proposals would not only have had no affect on shrinking the size of the Federal pie, but, in fact, even with the proposed cuts, the Federal pie would continue to get larger through Federal spending.

So, Mr. President, I submit that while we may be slowing the growth of the debt, we are still accelerating toward fiscal disaster.

Mr. President, if we want to put the brakes on excess Federal spending, we need to change how we go about spending the Federal dollar. We need to reform our annual budget process.

What role does our budget process play today if we have to wait to pass a 5-year budget agreement locking in spending levels before we can address spending cut proposals? And why should it be necessary for Congress to always promise spending cuts in the future, or as we say, in the "outyears," and deliver tax increases today or—or in the case of the 1994 tax bill—yesterday? You will recall that it was retroactive taxes.

The reason is because Congress is unaccountable—unaccountable by choice as well as by nature. Congress has no real incentives and faces no threatened penalties to encourage fiscally responsible behavior here.

Thus far, Mr. President, Congress has sought and approved simple, politically expedient solutions to our complex deficit and debt problems. In fact, the rallying call for deficit reduction that started

this past summer may have proved to be more of a cloak than a standard in combating the deficit and our national debt.

Our current budget process favors increased Federal spending, not less spending. It is impotent in enforcing current budget ceilings and remains hostile to cuts in Federal programs. In short, Mr. President, the budget process that we have today itself is imperious to efforts to cut the Federal deficit and national debt.

Indeed, Mr. President, the budget process can strengthen or weaken Congress' ability and Congress' resolve to gain control over its excessive spending habits.

Senator LOTT and I have joined the efforts of Representatives COX and STENHOLM in trying to create a budgetary framework that is receptive to efforts to curb Federal spending and facilitate fiscal responsibility here.

The Budget Process Reform Act seeks to take Federal spending off of automatic pilot and put it under stricter fiscal controls. It proposes to reform the process to provide greater budget discipline and stronger budget enforcement mechanisms.

The act would require that a legally binding budget resolution be in place prior to the consideration of any appropriations or authorization bills. Such a budget would fit on one page, setting aggregate spending totals for each of the 19 spending categories we deal with.

The bill would eliminate baseline budgeting and require that all entitlements, excepting Social Security and interest on the debt, are given fixed-sum appropriations.

In addition, in order to have effective enforcement, the bill would require a three-fifths supermajority to spend overbudget and would grant the President enhanced rescission authority when a budget category exceeds its allowable spending level.

Mr. President, this is effective legislation. It contains no gimmicks. Rather, the bill establishes a process for spending Federal dollars that imposes discipline and order while providing the flexibility to prioritize Federal spending without draconian measures such as across-the board cuts or unlimited line-item veto authority.

While many may seek solace in the fact that the annual deficit is less than predicted for this year, it is a hollow promise for our future and for our children's future.

Without doubt, Mr. President, Congress must reform its budget process if it is ever to effectively address this country's sinister deficits and heavy debt—and ensure its citizens of a bright economic future.

I ask my colleagues in the Senate to join Senator LOTT and me in cosponsoring this important piece of legislation.

September 22, 1994

[From the Congressional Record pages S 13302–13304]

By Mr. CRAIG (for himself, Mr. CAMPBELL, Mr. LUGAR, Mr. SHELBY, Mr. BROWN, Mr. ROTH, Mr. KEMPTHORNE, Mrs. KASSEBAUM, Mr. BURNS, Mr. GORTON, Mr. LOTT, and Mr. EXON):

S. 2458. A bill to reform the concept of baseline budgeting, set forth strengthened procedures for the consideration of rescissions, provide a mechanism for dedicating savings from spending cuts to

deficit reduction, and to ensure that only one emergency is included in any bill containing an emergency designation; to the Committee on the Budget and the Committee on Government Affairs, jointly, pursuant to the order of August 4, 1977, with instructions that if one Committee reports, the other Committee have thirty days to report or be discharged.

THE COMMON CENTS BUDGET REFORM ACT OF 1994

Mr. CRAIG. Madam President, today, I and my colleague, BEN NIGHTHORSE CAMPBELL of Colorado, introduce a package of budget reform measures that we hope the Budget Committee will begin to look at as early as October 5, when the chairman of that committee had agreed to hold hearings on the budget reform process here in the U.S. Senate and the Congress as a whole.

Yesterday, I had the privilege of meeting with three of our colleagues from the House, Congressman CHARLES STENHOLM, of Texas; Congressman JOHN KASICH; and Congressman TIM PENNY.

At that time, they presented to me a letter that they had sent to our leader, Senator MITCHELL, including three provisions that the House has passed by overwhelming numbers in the course of the last several months:

Expedited rescission, where the Congress would require a vote promptly by a majority on a proposal that would be rescinded by the President in budget matters brought before him. That passed on July 14 in the House by 342 votes.

A provision maintaining the integrity of emergency appropriations where they do not get wrapped into other appropriations but are dealt with separately and timely as relates to emergencies that occur in this country and need the Congress and their Government to respond to them.

And the simple matter of baseline budgeting.

Madam President, that is an issue that has been around for a long time; that we do not constantly roll into our budget's inflation and natural growth and then cut a portion of that and say our budgets have been cut, but actually look at rock-solid baseline budgeting and talk about if we want to increase it over last year. We think that is responsible.

Those three items are a part of a package that Senator CAMPBELL and I are introducing.

We have also introduced another measure guaranteeing that a cut is a cut. Amendments to cut appropriation bills would apply savings directly to deficit reduction rather than to be spun off into other spending as it often-times the case.

I think the American people have recognized that something is clearly wrong here with the Congress of the United States that cannot deal with its budgets.

Since the Budget Impoundment Act of now well over two decades ago, when we said to the American people we were going to bring to the budget process strong and decisive action that would control our budgets and control our deficits, well, two decades later and trillions of dollars added to our national debt, the American people no longer believe us.

Clearly, if we are to get our budget under control, it is us here in the Senate and in the U.S. House of Representatives that are

going to have to deal with it. We cannot ask for magic and we cannot wish it away. We are going to have to make the tough decisions and the provisions that we have brought about in what we are calling the Common Cents Budget Reform Act of 1994, puts before the Congress a process that, if implemented in law, both for the House and the Senate would bring these kinds of tough tests and measures to the budget process.

And I think the American people could observe us in our actions and say, "Yes, cuts are cuts. There is not any funny inflationary business inside budgets." Every year, we consciously decide that a budget is going to be increased or decreased, that we would also provide for the integrity of emergency appropriations, and that we would have a line-item veto in a modified rescission form in it. Those are the combination of real reform that I think most Americans expect and want to deal with and that will be found in our Common Cents Budget Reform Act that we introduce today.

I would encourage all of my colleagues, in the "Deal Colleague" letter that both Senator CAMPBELL and I sent out this week, to look at it and to join with us. Because the Budget Committee will on the 5th hold hearings and we know that this is an issue whose time is coming.

Next year we will be back before the Budget Committee dealing with a very responsible process of budget reform measures. I have talked with the ranking Republican, PETE DOMENICI, who has time and time again brought to this floor with his colleagues responsible reform measures. It is now time we get it done.

We are going to be back next year debating one of the issues that I have championed now for over a decade here in the Congress and that is a balanced budget amendment to the Constitution. If we pass that—and I think we will—next year, we are also going to have to follow it up with a process that brings the budget down to balance within a 4- to 5-year period.

So it is going to take provisions of the kind that I am introducing today, along with my colleague from Colorado, in this Common Cents Budget Reform Act.

We can no longer hide, Madam President. The American people are demanding that we get the budget under control, that we deal with deficits and that we be responsible with bringing our debt under control, and the bill that we introduce today that we will hopefully be able to have heard before the Budget Committee on the 5th and will reintroduce it again next year; a bill that three of the four provisions have already passed the House by almost unanimous votes, is the kind of issue that is a bipartisan balance to a very difficult process.

I hope my colleagues will join in co-sponsoring this legislation to build the bipartisan momentum that we will need to push it into law.

Mr. President, the 103d Congress, the "Reform Congress" came in like a lion and is about to go out like a lamb.

Even out of the few surviving proposals of the Joint Committee on the Organization of Congress, we may see no more than congressional coverage, considered in the Senate—if that.

The most important reforms that Congress could enact would be budget reforms.

In the two decades since the Budget and Impoundment Control Act was enacted, Congress progressively has lost control of Federal spending. This repeated failure to manage the taxpayers' money has become a threat not only to our Nation's economic future and our children's standard of living, but also to the credibility of Congress. We must act to help restore a sense of order, discipline, and accountability to the process by which spending decisions are made.

Yet, earlier this year, both Houses of Congress failed by narrow margins to pass the balanced budget amendment to the Constitution. In both bodies, reforms have remained buried in committee.

Finally, some of our House colleagues have broken through the logjam in that body and created the opportunity for the Senate, as well, to pass meaningful budget reforms.

In May of this year, Representatives STENHOLM, PENNY, and KASICH introduced the Common Cents Budget Reform Act, H.R. 4434, which included budget reforms in four major areas. These are:

Baseline budgeting reform: Presidential and congressional budgets and CBO cost estimates would compare proposed spending to current actual spending, not an inflated baseline.

Guaranteeing a cut is a cut: Amendments to cut appropriations bills could apply savings directly to deficit reduction, rather than to other spending; discretionary spending caps would be adjusted to reflect the savings in spending-cut amendments. This would be carried out by creation of a deficit reduction account, or lockbox, in each appropriations bill.

Modified line-item veto expedited rescissions: Congress would be required to vote promptly on Presidential proposals to rescind appropriations or strike narrowly targeted tax benefits.

Maintaining the integrity of emergency appropriations: Action on genuine emergencies would be expedited by barring the addition of nonemergency items.

In recent weeks, under growing pressure from deficit hawks, the House leadership allowed three bills to come to the floor: H.R. 4600, dealing with expedited rescissions; H.R. 4907, concerning budget baselines; and H.R. 4906, concerning the emergency appropriations process.

In all three cases, the House passed the stronger of the proposals before it, by large, bipartisan majorities.

On final passage, the House voted by a margin of 342 to 69 to pass the stronger expedited rescission language, by voice vote to create a static spending baseline, and by 406 to 6 to keep extraneous matters out of appropriations bills.

Today, along with my colleague from Colorado, Senator BEN Nighthorse Campbell, and a number of other Senators, I am introducing the Senate companion to the Common Cents Budget Reform Act. Our bill includes technical revisions that were made when three-fourths of these provisions passed the other body.

While the introduction of this latest version of these reforms comes late in the current session, I want to stress that all of these ideas have been around for a long time.

For example, the mechanics of the modified line-item veto/expedited rescission title of the common cents bill is very similar to the bill S. 690, that Senators KEMPTHORNE, COHEN, and I introduced last year. That bill, in turn, the result of conversations we had with

then-Representative Tom Carper and other House colleagues who successfully pushed a different version through the other body in 1992.

Five times during the 103d Congress, the Senate took votes on versions of a line-item veto. Three times these proposals received the support of a majority of Senators. Twice, large, bipartisan majorities in the Senate passed sense-of-the-Senate amendments in favor of some version of a line-item veto or expedited rescission process. Three times in 3 years, the House has passed the actual statutory reforms. Now is the time for the Senate to act.

Similarly, changes in computing and presenting a budget baseline and in the process for passing emergency appropriations bill have been debated for about as long as baselines and emergency appropriations themselves have existed. More than a year ago, I testified in favor of baseline reforms before the Joint Committee on the Organization of Congress.

Finally the need for a cut-is-a-cut rule, also called a deficit-reduction lockbox, has become evident from our experience under the discretionary spending caps created under the 1990 budget agreement.

Many times, we have seen Members in both bodies offer spending cuts in specific programs, invoking the worthy goal of deficit reduction. Whether we agreed or disagreed with any particular cut, most of us were frustrated by the fact that any such cut could not be required to apply to deficit reduction unless we overcame a 60-vote point of order in the Budget Act.

I opposed the 1990 budget agreement. I agree that the domestic spending caps are about the only part of that agreement that has worked. I cannot imagine that anyone who was involved in the 1990 budget agreement for the purpose of reducing the deficit could have intended that a 60-vote point of order should be available to thwart additional deficit reduction.

Therefore, last year, Senator SHELBY and I introduced the Deficit Reduction Assurance Act, which would lower the caps on outyear spending when Congress makes a current cut in an appropriations bill. Senator KEMPTHORNE and Representative CRAPO introduced similar lockbox bills at about the same time. The common cents bill includes a refined version of these proposals.

All of this I point out to stress that our bill does not raise new issues. It merely contains the newest refined, bipartisan solutions to familiar problems.

Yesterday, a letter was hand-delivered to the Senate majority leader from no less than 114 Members of the House, 57 Democrats and 57 Republicans, asking him to allow the Senate to vote on the three House-passed common cents reforms, without procedural obstacles.

I rise today to make that same request on the Senate floor, on behalf of the many Senators who support these reforms and support having a fair vote on them before the Congress goes home this year.

These are not radical reforms. The issues are familiar. It is not precipitous or premature to request that we be allowed up-or-down votes on them this year. It would not be a rush to judgement to

pass them and see them signed into law this year. It would be reform to do so, real reform.

Between 342 and 435 Members of the other body have finally come to the realization that these are the types of reforms the American people want. Now is the time for the Senate to wake up to the same reality.

I ask unanimous consent that I may include additional materials in the RECORD, including a summary of the Craig-Campbell common cents bill, the text of the bill, and a copy of the letter of the majority leader from 114 House Members.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

103D CONGRESS
2D SESSION

S. 2458

To reform the concept of baseline budgeting, set forth strengthened procedures for the consideration of rescissions, provide a mechanism for dedicating savings from spending cuts to deficit reduction, and ensure that only one emergency is included in any bill containing an emergency designation.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 23 (legislative day, SEPTEMBER 12), 1994

Mr. CRAIG (for himself, Mr. CAMPBELL, Mr. LUGAR, Mr. SHELBY, Mr. GRASSLEY, Mr. SIMPSON, Mr. BROWN, Mr. ROTH, Mr. KEMPTHORNE, Mrs. KASSEBAUM, Mr. BURNS, Mr. GORTON, Mr. LOTT, and Mr. EXON) introduced the following bill; which was read twice and referred jointly pursuant to the order of August 4, 1977, to the Committees on the Budget and Governmental Affairs, with instructions that if one Committee reports, the other Committee have thirty days to report or be discharged

A BILL

To reform the concept of baseline budgeting, set forth strengthened procedures for the consideration of rescissions, provide a mechanism for dedicating savings from spending cuts to deficit reduction, and ensure that only one emergency is included in any bill containing an emergency designation.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Common Cents Budget
3 Reform Act of 1994”.

4 **TITLE I—REFORM OF BASELINE**
5 **BUDGETING**

6 **SEC. 100. SHORT TITLE.**

7 This title may be cited as the “Baseline Budgeting
8 Reform Act of 1994”.

9 **SEC. 101. THE BASELINE.**

10 Except for purposes of adjusting the discretionary
11 spending limits set forth in section 601(a)(2) of the Con-
12 gressional Budget Act of 1974, section 257(e) of the Bal-
13 anced Budget and Emergency Deficit Control Act of 1985
14 is amended—

15 (1) in the second sentence of paragraph (1), by
16 striking “sequentially and eumulatively” and by
17 striking “for inflation as specified in paragraph
18 (5),”; and

19 (2) and by redesignating paragraph (6) as
20 paragraph (5).

21 **SEC. 102. THE PRESIDENT’S BUDGET.**

22 (a) Paragraph (5) of section 1105(a) of title 31,
23 United States Code, is amended to read as follows:

24 “(5) except as provided in subsection (b) of this
25 section, estimated expenditures and appropriations
26 for the current year and estimated expenditures and

1 proposed appropriations the President decides are
2 necessary to support the Government in the fiscal
3 year for which the budget is submitted and the 4 fis-
4 cal years following that year;”.

5 (b) Section 1105(a)(6) of title 31, United States
6 Code, is amended by inserting “current fiscal year and
7 the” before “fiscal year”.

8 (c) Section 1105(a)(12) of title 31, United States
9 Code, is amended by striking “and” at the end of subpara-
10 graph (A), by striking the period and inserting “; and”
11 at the end of subparagraph (B), and by adding at the end
12 the following new subparagraph:

13 “(C) the estimated amount for the same activ-
14 ity (if any) in the current fiscal year.”.

15 (d) Section 1105(a)(18) of title 31, United States
16 Code, is amended by inserting “new budget authority
17 and” before “budget outlays”.

18 (e) Section 1105(a) of title 31, United States Code,
19 is amended by adding at the end the following new para-
20 graph:

21 “(30) a comparison of levels of estimated ex-
22 penditures and proposed appropriations for each
23 function and subfunction in the current fiscal year
24 and the fiscal year for which the budget is submit-
25 ted, along with the proposed increase or decrease of

1 spending in percentage terms for each function and
2 subfunction.”.

3 (f) Section 1109(a) of title 31, United States Code,
4 is amended by adding after the first sentence the following
5 new sentence: “These estimates shall not include an ad-
6 justment for inflation for programs and activities subject
7 to discretionary appropriations.”.

8 **SEC. 103. CONGRESSIONAL BUDGET.**

9 Section 301(e) of the Congressional Budget Act of
10 1974 is amended by—

11 (1) inserting after the second sentence the fol-
12 lowing: “The starting point for any deliberations in
13 the Committee on the Budget of each House on the
14 concurrent resolution on the budget for the next fis-
15 cal year shall be the estimated level of outlays for
16 the current year in each function and subfunction.
17 Any increases or decreases in the Congressional
18 budget for the next fiscal year shall be from such es-
19 timated levels.”; and

20 (2) striking paragraph (8) and redesignating
21 paragraphs (9) and (10) as paragraphs (10) and
22 (11), respectively, and by inserting after paragraph
23 (7) the following new paragraphs:

24 “(8) a comparison of levels for the current fis-
25 cal year with proposed spending and revenue levels

1 for the subsequent fiscal years along with the pro-
2 posed increase or decrease of spending in percentage
3 terms for each function and subfunction; and

4 “(9) information, data, and comparisons indi-
5 cating the manner in which and the basis on which,
6 the committee determined each of the matters set
7 forth in the concurrent resolution, including infor-
8 mation on outlays for the current fiscal year and the
9 decisions reached to set funding for the subsequent
10 fiscal years;”.

11 **SEC. 104. CONGRESSIONAL BUDGET OFFICE REPORT TO**
12 **COMMITTEES.**

13 (a) The first sentence of section 202(f)(1) of the Con-
14 gressional Budget Act of 1974 is amended to read as fol-
15 lows: “On or before February 15 of each year, the Direc-
16 tor shall submit to the Committees on the Budget of the
17 House of Representatives and the Senate a report for the
18 fiscal year commencing on October 1 of that year with
19 respect to fiscal policy, including (A) alternative levels of
20 total revenues, total new budget authority, and total out-
21 lays (including related surpluses and deficits) compared
22 to comparable levels for the current year and (B) the levels
23 of tax expenditures under existing law, taking into account
24 projected economic factors and any changes in such levels

1. based on proposals in the budget submitted by the Presi-
2. dent for such fiscal year.”.

3. (b) Section 202(f)(1) of the Congressional Budget
4. Act of 1974 is amended by inserting after the first sen-
5. tence the following new sentence: “That report shall also
6. include a table on sources of spending growth under cur-
7. rent law in total mandatory spending for the budget year
8. and the ensuing 4 fiscal years, which shall include changes
9. in outlays attributable to the following: cost-of-living ad-
10. justments; changes in the number of program recipients;
11. increases in medical care prices, utilization and intensity
12. of medical care; and residual factors.”.

13. (c) Section 202(f)(3) of the Congressional Budget
14. Act of 1974 is amended by striking “and” before “(B)”
15. and inserting a comma, and by inserting before the period
16. at the end the following: “, and (C) all programs and ac-
17. tivities with permanent or indefinite spending authority or
18. that fall within section 401(c)(2)(C)”.

19. (d) Section 308(a)(1) of the Congressional Budget
20. Act of 1974 is amended—

21. (1) in subparagraph (C), by inserting “, and
22. shall include a comparison of those levels to com-
23. parable levels for the current fiscal year” before “if
24. timely submitted”; and

(2) by striking “and” at the end of subparagraph (C), by striking the period and inserting “; and” at the end of subparagraph (D), and by adding at the end the following new subparagraph:

“(E) comparing the levels in existing programs in such measure to the estimated levels for the current fiscal year.”.

TITLE II—CHANGES IN DISCRETIONARY SPENDING LIMITS

SEC. 200. SHORT TITLE.

This title may be cited as the “Guaranteed Spending Cut Act of 1994”.

SEC. 201. DOWNWARD ADJUSTMENTS OF DISCRETIONARY SPENDING LIMITS.

(a) **DOWNWARD ADJUSTMENTS.**—The discretionary spending limit for new budget authority for any fiscal year set forth in section 601(a)(2) of the Congressional Budget Act of 1974, as adjusted in strict conformance with section 251 of the Balanced Budget and Emergency Deficit Control Act of 1985, shall be reduced by the amount in the Deficit Reduction Account set forth in each appropriation bill (or changed in the case of a rescission bill pursuant to section 1012 of the Congressional Budget Act of 1974), as calculated by the Director of the Office of Management and Budget. The adjusted discretionary spending

1 limit for outlays for that fiscal year and each outyear as
2 set forth in such section 601(a)(2) shall be reduced as a
3 result of the reduction of such budget authority, as cal-
4 culated by the Director of the Office of Management and
5 Budget based upon programmatic and other assumptions
6 set forth in the joint explanatory statement of managers
7 accompanying the conference report on that bill. Reduc-
8 tions (if any) shall occur on the day that each such appro-
9 priation bill is enacted into law. For purposes of the Bal-
10 anced Budget and Emergency Deficit Control Act of 1985
11 and the Congressional Budget Act of 1974, amounts in
12 Deficit Reduction Accounts shall only be used to make the
13 adjustments specified in this subsection.

14 (b) DEFINITION.—As used in this section, the term
15 “appropriation bill” means any general or special appro-
16 priation bill, and any bill or joint resolution making sup-
17 plemental, deficiency, or continuing appropriations.

18 **SEC. 202. DEFICIT REDUCTION ACCOUNTS IN APPROPRIA-**
19 **TION MEASURES AND IN RESCISSION BILLS.**

20 (a) DEFICIT REDUCTION ACCOUNTS.—Title III of
21 the Congressional Budget Act of 1974 is amended by add-
22 ing at the end the following new section:

23 “DEFICIT REDUCTION ACCOUNTS IN APPROPRIATION
24 BILLS AND RESCISSION BILLS

25 “SEC. 314. (a) Any appropriation bill or rescission
26 bill that is being marked up by the Committee on Appro-

1 priations (or a subcommittee thereof) of either House shall
2 contain a line item entitled 'Deficit Reduction Account'.

3 “(b) Whenever the Committee on Appropriations of
4 either House reports an appropriation bill, that bill shall
5 contain a line item entitled 'Deficit Reduction Account'
6 comprised of the following:

7 “(1) Only in the case of any general appropria-
8 tion bill containing the appropriations for Treasury
9 and Postal Service (or resolution making continuing
10 appropriations (if applicable)), an amount equal to
11 the amounts by which the discretionary spending
12 limit for new budget authority and outlays set forth
13 in the most recent OMB sequestration preview re-
14 port pursuant to section 601(a)(2) exceed the sec-
15 tion 602(a) allocation for the fiscal year covered by
16 that bill.

17 “(2) Only in the case of any general appropria-
18 tion bill (or resolution making continuing appropria-
19 tions (if applicable)), an amount not to exceed the
20 amount by which the appropriate section 602(b) al-
21 location of new budget authority exceeds the amount
22 of new budget authority provided by that bill (as re-
23 ported by that committee).

24 “(3) Only in the case of any bill making supple-
25 mental appropriations following enactment of all

1 general appropriation bills for the same fiscal year,
2 an amount not to exceed the amount by which the
3 section 602(a) allocation of new budget authority ex-
4 ceeds the sum of all new budget authority provided
5 by appropriation bills enacted for that fiscal year
6 plus that supplemental appropriation bill (as re-
7 ported by that committee).

8 “(c)(1) Any amendment which is offered to reduce
9 budget authority to an appropriation bill during its consid-
10 eration by the Committee on Appropriations (or any sub-
11 committee thereof) of either House of Congress or by ei-
12 ther House may increase the amount placed in the Deficit
13 Reduction Account by an amount which does not exceed
14 the reduction in budget authority contained in the amend-
15 ment. Any amendment to rescind budget authority during
16 consideration of any bill by the Committee on Appropria-
17 tions (or any subcommittee thereof) of either House of
18 Congress or by either House may increase the amount
19 placed in the Deficit Reduction Account by an amount
20 which does not exceed the increase in the rescission con-
21 tained in the amendment.

22 “(2) Whenever any amendment referred to in para-
23 graph (1) is agreed to increasing the amount contained
24 in the Deficit Reduction Account, then the line item enti-

1 tled 'Deficit Reduction Account' shall be increased by that
2 amount.

3 “(3) Any amendment referred to in paragraph (1)
4 shall identify the program, project, or account which is
5 to be reduced in order to increase the Deficit Reduction
6 Account by the amount set forth in that amendment.

7 “(d)(1) Any amendment pursuant to subsection
8 (c)(1) shall be in order even if amending portions of the
9 bill not yet read for amendment with respect to the Deficit
10 Reduction Account and shall not be subject to a demand
11 for a division of the question in the House of Representa-
12 tives (or in the Committee of the Whole) or in the Senate.
13 It shall be in order to further amend the amount placed
14 in the Deficit Reduction Account after that amount has
15 been changed by amendment. It shall not be in order to
16 reduce the amount placed in the Deficit Reduction Ac-
17 count unless it is pursuant to a motion to strike any pro-
18 posed rescission under section 1012(c)(1)(C) or section
19 1012(c)(3)(B). It shall not be in order to offer an amend-
20 ment increasing a Deficit Reduction Account unless the
21 amendment increases rescissions or reduces appropria-
22 tions by an equivalent amount.

23 “(2) During consideration of such an amendment to
24 an appropriation bill in the House of Representatives, if
25 the original motion offered by the floor manager proposed

1 to place an amount in the Deficit Reduction Account that
2 is less than the lower of the level in the House or Senate
3 bill, then pending such original motion and before debate
4 thereon, a motion to insist on disagreement to the amend-
5 ment proposed by the Senate shall be preferential to any
6 other motion to dispose of that amendment. Such a pref-
7 erential motion shall be separately debatable for one hour
8 equally divided between its opponents and the proponents
9 of the original motion. The previous question shall be con-
10 sidered as ordered on such a preferential motion to its
11 adoption without an intervening motion.

12 “(3) The committee report accompanying any appro-
13 priation bill or rescission bill in the House of Representa-
14 tives or Senate and the joint statement of the managers
15 accompanying the conference report on that bill shall set
16 forth—

17 “(A) for any general appropriation bill, the
18 amount of new budget authority and outlays derived
19 from the difference between the section 602(b) allo-
20 cations and the appropriation bills;

21 “(B) for any appropriation bill (except a gen-
22 eral appropriation bill) but only if all 13 general ap-
23 propriation bills have been enacted for that fiscal
24 year, the amount of new budget authority and out-
25 lays to be derived from the difference between the

1 section 602(a) allocations and the sum of appropria-
2 tion bills for the current year and that bill; and

3 “(C) for any amendment described in sub-
4 section (c)(1) changing the amount in a Deficit Re-
5 duction Account, the program, project, or account
6 assumptions;

7 for amounts in the Deficit Reduction Account.

8 “(e) As used in this section—

9 “(1) the term ‘appropriation bill’ means any
10 general or special appropriation bill, and any bill or
11 joint resolution making supplemental, deficiency, or
12 continuing appropriations; and

13 “(2) the term ‘rescission bill’ means any bill
14 which rescinds budget authority, including a bill re-
15 ferred to by section 1012.”.

16 (b) CONFORMING AMENDMENT.—The table of con-
17 tents set forth in section 1(b) of the Congressional Budget
18 and Impoundment Control Act of 1974 is amended by in-
19 serting after the item relating to section 313 the following
20 new item:

“Sec. 314. Deficit reduction accounts in appropriation bills and rescission bills.”.

1 **TITLE III—EXPEDITED RESCIS-**
 2 **SIONS AND TARGETED TAX**
 3 **BENEFITS**

4 **SEC. 300. SHORT TITLE.**

5 This title may be cited as the “Modified Line Item
 6 Veto/Expedited Rescission Act of 1994”.

7 **SEC. 301. EXPEDITED CONSIDERATION OF CERTAIN PRO-**
 8 **POSED RESCISSIONS AND TARGETED TAX**
 9 **BENEFITS.**

10 (a) IN GENERAL.—Section 1012 of the Congressional
 11 Budget and Impoundment Control Act of 1974 (2 U.S.C.
 12 683) is amended to read as follows:

13 “EXPEDITED CONSIDERATION OF CERTAIN PROPOSED
 14 RESCISSIONS

15 “SEC. 1012. (a) PROPOSED RESCISSION OF BUDGET
 16 AUTHORITY OR REPEAL OF TARGETED TAX BENEFITS.—
 17 The President may propose, at the time and in the manner
 18 provided in subsection (b), the rescission of any budget
 19 authority provided in an appropriation Act or repeal of
 20 any targeted tax benefit provided in any revenue Act.
 21 Funds made available for obligation under this procedure
 22 may not be proposed for rescission again under this sec-
 23 tion.

24 “(b) TRANSMITTAL OF SPECIAL MESSAGE.—

1 “(1) The President may transmit to Congress a
2 special message proposing to rescind amounts of
3 budget authority or to repeal any targeted tax bene-
4 fit and include with that special message a draft bill
5 that, if enacted, would only rescind that budget au-
6 thority or repeal that targeted tax benefit. That bill
7 shall clearly identify the amount of budget authority
8 that is proposed to be rescinded for each program,
9 project, or activity to which that budget authority
10 relates or the targeted tax benefit proposed to be re-
11 pealed, as the case may be. It shall include a Deficit
12 Reduction Account. The President may place in the
13 Deficit Reduction Account an amount not to exceed
14 the total rescissions in that bill. A targeted tax bene-
15 fit may only be proposed to be repealed under this
16 section during the 20-legislative-day period (exclud-
17 ing Saturdays, Sundays, and legal holidays) com-
18 mencing on the day after the date of enactment of
19 the provision proposed to be repealed.

20 “(2) In the case of an appropriation Act that
21 includes accounts within the jurisdiction of more
22 than one subcommittee of the Committee on Appro-
23 priations, the President in proposing to rescind
24 budget authority under this section shall send a sep-
25 arate special message and accompanying draft bill

1 for accounts within the jurisdiction of each such sub-
2 committee.

3 “(3) Each special message shall specify, with
4 respect to the budget authority proposed to be re-
5 scinded, the following—

6 “(A) the amount of budget authority which
7 he proposes to be rescinded;

8 “(B) any account, department, or estab-
9 lishment of the Government to which such
10 budget authority is available for obligation, and
11 the specific project or governmental functions
12 involved;

13 “(C) the reasons why the budget authority
14 should be rescinded;

15 “(D) to the maximum extent practicable,
16 the estimated fiscal, economic, and budgetary
17 effect (including the effect on outlays and re-
18 ceipts in each fiscal year) of the proposed re-
19 scission; and

20 “(E) all facts, circumstances, and consider-
21 ations relating to or bearing upon the proposed
22 rescission and the decision to effect the pro-
23 posed rescission, and to the maximum extent
24 practicable, the estimated effect of the proposed
25 rescission upon the objects, purposes, and pro-

1 grams for which the budget authority is pro-
2 vided.

3 Each special message shall specify, with respect to
4 the proposed repeal of targeted tax benefits, the in-
5 formation required by subparagraphs (C), (D), and
6 (E), as it relates to the proposed repeal.

7 “(c) PROCEDURES FOR EXPEDITED CONSIDER-
8 ATION.—

9 “(1)(A) Before the close of the second legisla-
10 tive day of the House of Representatives after the
11 date of receipt of a special message transmitted to
12 Congress under subsection (b), the majority leader
13 or minority leader of the House of Representatives
14 shall introduce (by request) the draft bill accom-
15 panying that special message. If the bill is not intro-
16 duced as provided in the preceding sentence, then,
17 on the third legislative day of the House of Rep-
18 resentatives after the date of receipt of that special
19 message, any Member of that House may introduce
20 the bill.

21 “(B) The bill shall be referred to the Commit-
22 tee on Appropriations or the Committee on Ways
23 and Means of the House of Representatives, as ap-
24 plicable. The committee shall report the bill without
25 substantive revision and with or without rec-

1 ommendation. The bill shall be reported not later
2 than the seventh legislative day of that House after
3 the date of receipt of that special message. If that
4 committee fails to report the bill within that period,
5 that committee shall be automatically discharged
6 from consideration of the bill, and the bill shall be
7 placed on the appropriate calendar.

8 “(C)(i) During consideration under this para-
9 graph, any Member of the House of Representatives
10 may move to strike any proposed rescission or re-
11 scissions of budget authority or any proposed repeal
12 of a targeted tax benefit, as applicable, if supported
13 by 49 other Members.

14 “(ii) It shall not be in order for a Member of
15 the House of Representatives to move to strike any
16 proposed rescission under clause (i) unless the
17 amendment reduces the appropriate Deficit Redue-
18 tion Account if the program, project, or account to
19 which the proposed rescission applies was identified
20 in the Deficit Reduction Account in the special mes-
21 sage under subsection (b).

22 “(D) A vote on final passage of the bill shall be
23 taken in the House of Representatives on or before
24 the close of the 10th legislative day of that House
25 after the date of the introduction of the bill in that

1 House. If the bill is passed, the Clerk of the House
2 of Representatives shall cause the bill to be en-
3 grossed, certified, and transmitted to the Senate
4 within one calendar day of the day on which the bill
5 is passed.

6 “(2)(A) A motion in the House of Representa-
7 tives to proceed to the consideration of a bill under
8 this section shall be highly privileged and not debat-
9 able. An amendment to the motion shall not be in
10 order, nor shall it be in order to move to reconsider
11 the vote by which the motion is agreed to or dis-
12 agreed to.

13 “(B) Debate in the House of Representatives
14 on a bill under this section shall not exceed 4 hours,
15 which shall be divided equally between those favoring
16 and those opposing the bill. A motion further to
17 limit debate shall not be debatable. It shall not be
18 in order to move to recommit a bill under this sec-
19 tion or to move to reconsider the vote by which the
20 bill is agreed to or disagreed to.

21 “(C) Appeals from decisions of the Chair relat-
22 ing to the application of the Rules of the House of
23 Representatives to the procedure relating to a bill
24 under this section shall be decided without debate.

1 “(D) Except to the extent specifically provided
2 in the preceding provisions of this subsection, con-
3 sideration of a bill under this section shall be gov-
4 erned by the Rules of the House of Representatives.
5 It shall not be in order in the House of Representa-
6 tives to consider any rescission bill introduced pursu-
7 ant to the provisions of this section under a suspen-
8 sion of the rules or under a special rule.

9 “(3)(A) A bill transmitted to the Senate pursu-
10 ant to paragraph (1)(D) shall be referred to its
11 Committee on Appropriations or Committee on Fi-
12 nance, as applicable. That committee shall report
13 the bill without substantive revision and with or
14 without recommendation. The bill shall be reported
15 not later than the seventh legislative day of the Sen-
16 ate after it receives the bill. A committee failing to
17 report the bill within such period shall be automati-
18 cally discharged from consideration of the bill, and
19 the bill shall be placed upon the appropriate cal-
20 endar.

21 “(B)(i) During consideration under this para-
22 graph, any Member of the Senate may move to
23 strike any proposed rescission or rescissions of budg-
24 et authority or any proposed repeal of a targeted tax

1 benefit, as applicable, if supported by 14 other Mem-
2 bers.

3 “(ii) It shall not be in order for a Member of
4 the House of Senate to move to strike any proposed
5 rescission under clause (i) unless the amendment re-
6 duces the appropriate Deficit Reduction Account if
7 the program, project, or account to which the pro-
8 posed rescission applies was identified in the Deficit
9 Reduction Account in the special message under
10 subsection (b).

11 “(4)(A) A motion in the Senate to proceed to
12 the consideration of a bill under this section shall be
13 privileged and not debatable. An amendment to the
14 motion shall not be in order, nor shall it be in order
15 to move to reconsider the vote by which the motion
16 is agreed to or disagreed to.

17 “(B) Debate in the Senate on a bill under this
18 section, and all debatable motions and appeals in
19 connection therewith (including debate pursuant to
20 subparagraph (C)), shall not exceed 10 hours. The
21 time shall be equally divided between, and controlled
22 by, the majority leader and the minority leader or
23 their designees.

24 “(C) Debate in the Senate on any debatable
25 motion or appeal in connection with a bill under this

1 section shall be limited to not more than 1 hour, to
2 be equally divided between, and controlled by, the
3 mover and the manager of the bill, except that in
4 the event the manager of the bill is in favor of any
5 such motion or appeal, the time in opposition there-
6 to, shall be controlled by the minority leader or his
7 designee. Such leaders, or either of them, may, from
8 time under their control on the passage of a bill,
9 allot additional time to any Senator during the con-
10 sideration of any debatable motion or appeal.

11 “(D) A motion in the Senate to further limit
12 debate on a bill under this section is not debatable.
13 A motion to recommit a bill under this section is not
14 in order.

15 “(d) AMENDMENTS AND DIVISIONS PROHIBITED.—
16 Except as otherwise provided by this section, no amend-
17 ment to a bill considered under this section shall be in
18 order in either the House of Representatives or the Sen-
19 ate. It shall not be in order to demand a division of the
20 question in the House of Representatives (or in a Commit-
21 tee of the Whole) or in the Senate. No motion to suspend
22 the application of this subsection shall be in order in either
23 House, nor shall it be in order in either House to suspend
24 the application of this subsection by unanimous consent.

1 “(e) REQUIREMENT TO MAKE AVAILABLE FOR OBLI-
2 GATION.—(1) Any amount of budget authority proposed
3 to be rescinded in a special message transmitted to Con-
4 gress under subsection (b) shall be made available for obli-
5 gation on the day after the date on which either House
6 rejects the bill transmitted with that special message.

7 “(2) Any targeted tax benefit proposed to be repealed
8 under this section as set forth in a special message trans-
9 mitted to Congress under subsection (b) shall be deemed
10 repealed, unless either House rejects the bill transmitted
11 with that special message.

12 “(f) DEFINITIONS.—For purposes of this section—

13 “(1) the term ‘appropriation Act’ means any
14 general or special appropriation Act, and any Act or
15 joint resolution making supplemental, deficiency, or
16 continuing appropriations;

17 “(2) the term ‘legislative day’ means, with re-
18 spect to either House of Congress, any day of ses-
19 sion; and

20 “(3) The term “targeted tax benefit” means
21 any provision which has the practical effect of pro-
22 viding a benefit in the form of a differential treat-
23 ment to a particular taxpayer or a limited class of
24 taxpayers, whether or not such provision is limited
25 by its terms to a particular taxpayer or a class of

1 taxpayers. Such term does not include any benefit
2 provided to a class of taxpayers distinguished on the
3 basis of general demographic conditions such as in-
4 come, number of dependents, or marital status.”.

5 (b) EXERCISE OF RULEMAKING POWERS.—Section
6 904 of the Congressional Budget Act of 1974 (2 U.S.C.
7 621 note) is amended—

8 (1) in subsection (a), by striking “and 1017”
9 and inserting “1012, and 1017”; and

10 (2) in subsection (d), by striking “section
11 1017” and inserting “sections 1012 and 1017”; and

12 (c) CONFORMING AMENDMENTS.—

13 (1) Section 1011 of the Congressional Budget
14 Act of 1974 (2 U.S.C. 682(5)) is amended by re-
15 pealing paragraphs (3) and (5) and by redesignating
16 paragraph (4) as paragraph (3).

17 (2) Section 1014 of such Act (2 U.S.C. 685) is
18 amended—

19 (A) in subsection (b)(1), by striking “or
20 the reservation”; and

21 (B) in subsection (e)(1), by striking “or a
22 reservation” and by striking “or each such res-
23 ervation”.

24 (3) Section 1015(a) of such Act (2 U.S.C. 686)
25 is amended by striking “is to establish a reserve or”,

1 by striking “the establishment of such a reserve or”,
2 and by striking “reserve or” each other place it ap-
3 pears.

4 (4) Section 1017 of such Act (2 U.S.C. 687) is
5 amended—

6 (A) in subsection (a), by striking “rescis-
7 sion bill introduced with respect to a special
8 message or”;

9 (B) in subsection (b)(1), by striking “re-
10 scission bill or”, by striking “bill or” the second
11 place it appears, by striking “rescission bill with
12 respect to the same special message or”, and by
13 striking “, and the case may be,”;

14 (C) in subsection (b)(2), by striking “bill
15 or” each place it appears;

16 (D) in subsection (c), by striking “rescis-
17 sion” each place it appears and by striking “bill
18 or” each place it appears;

19 (E) in subsection (d)(1), by striking “re-
20 scission bill or” and by striking “, and all
21 amendments thereto (in the case of a rescission
22 bill)”;

23 (F) in subsection (d)(2)—

24 (i) by striking the first sentence;

(ii) by amending the second sentence to read as follows: "Debate on any debatable motion or appeal in connection with an impoundment resolution shall be limited to 1 hour, to be equally divided between, and controlled by, the mover and the manager of the resolution, except that in the event that the manager of the resolution is in favor of any such motion or appeal, the time in opposition thereto shall be controlled by the minority leader or his designee.";

(iii) by striking the third sentence; and

(iv) in the fourth sentence, by striking "rescission bill or" and by striking "amendment, debatable motion," and by inserting "debatable motion";

(G) in paragraph (d)(3), by striking the second and third sentences; and

(H) by striking paragraphs (4), (5), (6), and (7) of paragraph (d).

(d) CLERICAL AMENDMENTS.—The item relating to section 1012 in the table of sections for subpart B of title

1 X of the Congressional Budget and Impoundment Control
2 Act of 1974 is amended to read as follows:

“Sec. 1012. Expedited consideration of certain proposed rescissions.”.

3 **TITLE IV—TREATMENT OF**
4 **EMERGENCY SPENDING**

5 **SEC. 400. SHORT TITLE.**

6 This title may be cited as the “Emergency Appropria-
7 tions Integrity Act of 1994”.

8 **SEC. 401. TREATMENT OF EMERGENCY SPENDING.**

9 (a) EMERGENCY APPROPRIATIONS.—Section
10 251(b)(2)(D)(i) of the Balanced Budget and Emergency
11 Deficit Control Act of 1985 is amended by adding at the
12 end the following new sentence: “However, OMB shall not
13 adjust any discretionary spending limit under this clause
14 for any statute that designates appropriations as emer-
15 gency requirements if that statute contains an appropria-
16 tion for any other matter, event, or occurrence, but that
17 statute may contain rescissions of budget authority.”.

18 (b) EMERGENCY LEGISLATION.—Section 252(e) of
19 the Balanced Budget and Emergency Deficit Control Act
20 of 1985 is amended by adding at the end the following
21 new sentence: “However, OMB shall not designate any
22 such amounts of new budget authority, outlays, or receipts
23 as emergency requirements in the report required under
24 subsection (d) if that statute contains any other provisions

1 that are not so designated, but that statute may contain
2 provisions that reduce direct spending.”.

3 (c) NEW POINT OF ORDER.—Title IV of the Congress-
4 sional Budget Act of 1974 is amended by adding at the
5 end the following new section:

6 “POINT OF ORDER REGARDING EMERGENCIES

7 “SEC. 408. It shall not be in order in the House of
8 Representatives or the Senate to consider any bill or joint
9 resolution, or amendment thereto or conference report
10 thereon, containing an emergency designation for purposes
11 of section 251(b)(2)(D) or 252(e) of the Balanced Budget
12 and Emergency Deficit Control Act of 1985 if it also pro-
13 vides an appropriation or direct spending for any other
14 item or contains any other matter, but that bill or joint
15 resolution, amendment, or conference report may contain
16 rescissions of budget authority or reductions of direct
17 spending, or that amendment may reduce amounts for
18 that emergency.”.

19 (d) CONFORMING AMENDMENT.—The table of con-
20 tents set forth in section 1(b) of the Congressional Budget
21 and Impoundment Control Act of 1974 is amended by in-
22 serting after the item relating to section 313 the following
23 new item:

“Sec. 408. Point of order regarding emergencies.”.

[From the Congressional Record pages S13307-13308]

THE COMMON CENTS BUDGET REFORM ACT OF 1994—SUMMARY

The existing federal budget process suffers from a growing crisis of confidence among the American people. Families that pay their bills and live within their means cannot understand the reports that come out of Washington, DC, about "spending cuts" bills that result in more spending, program terminations that do not reduce spending or the budget deficit, and narrow-interest "pork" that withstands all efforts to isolate and strip it out of huge, omnibus spending and tax bills.

The Common Cents Budget Reform Act is a bipartisan effort to reverse the bias in the existing budget process toward higher spending and abusive, "special interest" favors. The Act would do so by making the process more honest, understandable, disciplined, and accountable. It contains four basic reforms:

TITLE I. BASELINE BUDGETING REFORM ACT—COMPARING SPENDING INCREASES/CUTS TO ACTUAL SPENDING LEVELS

When a government program funded at \$25 million this year says it needs \$29 million next year and receives \$27 million, Congress takes credit for a \$2 million "*spending cut*." This is because current law requires budget proposals to be measured against a "baseline"—which includes automatic adjustments for inflation, legislated changes scheduled to take effect, and projected case-load increases.

While such adjustments may provide useful information to policy makers who want to know how much it would cost to maintain current services and benefits, they also result in programs growing in size and cost after supposedly being "cut." At best, ordinary Americans have come to believe that the government is overrun with budget wonks using surreal arithmetic. At worst, they believe their government is lying to them.

The decision of whether a government program should grow or shrink, whether due to economic, demographic, or policy reasons, is one that should be faced squarely by elected officials and reported to the public in clear, straightforward terms. To this end, the Common Cents Budget Reform Act would:

Require both the President and Congress to compare their budget proposals to amounts actually spent in the prior year, rather than against an inflated baseline.

Stipulate that Congressional Budget Office (CBO) cost estimates of pending legislation must include a comparison with the prior year's actual spending level.

Amend the legal definition of the official baseline so that it no longer assumes automatic growth in discretionary spending.

Instruct CBO to enumerate all the programs funded on an automatic, open-ended basis rather than subject to annual Congressional review (i.e., entitlement programs) and identify the reasons behind their projected growth.

TITLE II. GUARANTEED SPENDING CUT ACT—ENSURING THAT A CUT IS A CUT

Members of the Senate and House, as well as their constituents, have become all too familiar with the frustration that results when Members adopt an amendment to cut specific spending items out of appropriations bills, only to see that money re-routed to other spending programs, instead of deficit reduction. This practice both leads to spending-cut amendments being taken less seriously and gives opponents of a given cut the argument that the money will still be spent, anyway. To ensure that spending-cut amendments have their intended effect, the Common Cents Budget Reform Act would:

Allow Members of Congress to designate that all or some of the savings from any floor amendment to an appropriations bill be directed to deficit reduction.

Ensure that the proceedings from spending cuts actually go to deficit-reduction by automatically adjusting the overall discretionary spending caps by the amount of the savings.

Reduce the cap on discretionary spending if the budget resolution establishes a lower limit on such spending than that allowed under the cap.

Preserve the Appropriations Committees' prerogative to maintain reserve funds for future needs.

TITLE III. MODIFIED LINE ITEM VETO/EXPEDITED RESCISSION ACT—COMPELLING ACTION ON SPENDING CUTS AND TARGETED TAX BREAKS

Under current law, Congress is free to ignore any rescission of spending proposed by the President. Some have argued that this fact can allow a president to appear fiscally responsible while proposing rescissions he/she knows will never be accepted. On the other hand, a President unwilling to shut down vital government functions by vetoing an entire appropriations bill has no effective means of singling out objectionable items that never would stand scrutiny on their own, individual merits. As common as this complaint has become about spending bills, increasing attention also has been called to similar "pork" in tax bills, in the form of special breaks narrowly targeted to one or a few beneficiaries. To increase accountability, the Common Cents Reform Act would:

Enable the President to strike excessive or low-priority spending items without vetoing an entire appropriations bill; rescissions may be submitted at any time.

Enable the President to strike special-interest, narrowly-targeted, tax benefits in a similar fashion, within 10 days of enactment of the bill containing the provisions.

Allow the President to earmark savings for deficit reduction.

Require Congress to consider the spending rescission or targeted tax benefit items submitted by the President on an expedited basis.

Allow Congress to vote on individual items within the President's package.

Preserve the Appropriations Committees' prerogative to move their own rescission bills.

TITLE IV. EMERGENCY APPROPRIATIONS INTEGRITY ACT—KEEPING
NON-EMERGENCY ITEMS OUT OF EMERGENCY SPENDING BILLS

Items that would not pass on their own merits often are added to bills that were introduced to provide appropriations in response to emergencies. This approach has become more popular under the Budget Enforcement Act of 1990, which exempts emergencies from the caps on discretionary spending. For example, in February, the President's request for \$6.2 billion in Budget Authority for the victims of the California earthquake grew to more than \$11 billion, with add-ons for everything from the design of a new Amtrak station to copies of White House electronic mail. To halt this practice, the Common Cents Budget Reform Act would:

Bar non-emergency items from being added to emergency appropriations bills.

Expedite Congressional action on genuine emergencies by preventing emergency bills from being made controversial by the addition of non-emergency items.

Prevent using "emergency" spending bills as the vehicles that carry additional spending on "pork," pet projects, or items that should be addressed through the regular legislative process.

Prohibit conferees from dropping cuts included in both House and Senate bills.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, September 21, 1994.

Hon. GEORGE MITCHELL,
Senate Majority Leader, Russell SOB.

DEAR SENATOR MITCHELL: As you know, the House of Representatives has approved several budget process reform bills over the last few weeks. We are writing to strongly encourage you to work with the committees of jurisdiction to bring these bills to the Senate floor for an up or down vote as soon as possible.

The legislation passed by the House would make three reasonable reforms to restore honesty and accountability in the budget process:

Expedited Rescissions (H.R. 4600).—Congress would be required to vote promptly by majority vote on Presidential proposals to rescind spending or strike narrowly targeted tax benefits. H.R. 4600 was passed on July 14 by a vote of 342–69.

Maintaining the Integrity of Emergency Appropriations (H.R. 4906).—The integrity of the emergency spending process would be protected by preventing extraneous, non-emergency items from being added to emergency spending legislation. The Emergency Spending control Act of 1994 was approved by a vote of 406–6 on August 17.

Baseline Budgeting Reform (H.R. 4907).—The President's budget, the budget resolution, and the Congressional Budget Office would be required to compare spending levels to the previous year's spending instead of an inflated baseline. The Full budget Disclosure Act was passed by a voice vote on August 12.

Given the strong, bi-partisan support for these bills in the House, they deserve serious consideration by the Senate. Legislation incor-

porating provisions identical to the bills passed by the House has been introduced in the Senate. We are concerned about press reports that the Senate will allow these bills to die through inaction. Therefore, we respectfully urge you to allow the Senate to vote on the merits of these proposals without procedural hurdles before the end of the 103rd Congress.

We look forward to working with you in enacting these common sense reforms of the budget process. Thank you for your consideration.

Sincerely,

CHARLES STENHOLM.
JOHN R. KASICH.
TIM PENNY.

DEMOCRATS SIGNING BUDGET PROCESS REFORMS LETTER TO SENATOR MITCHELL

Robert Andrews, Peter Barca, Tom Barrett, Bill Brewster, Glen Browder, Leslie Byrne, Maria Cantwell, Ben Cardin, Bob Clement, Gary Conduit.

Jim cooper, Sam Coopersmith, Pat Danner, Nathan Deal, Peter DeFazio, Kika de la Garza, Calvin Dooley, Karan English, Eric Fingerhut, Elizabeth Furse.

Pete Geren, Dan Glickman, Ralph Hall, Lee Hamilton, Jane Harman, Jimmy Hayes, Tim Holden, Earl Hutto, Andy Jacobs.

Tim Johnson, Herb Klein, Greg Laughlin, Larry LaRocco, Marilyn Lloyd, David Mann, Marty Meehan, David Minge, Bill Orton, Mike Parker.

L.F. Payne, Tim Penny, Collin Peterson, Owen Pickett, Glenn Poshard, Tim Roemer, J. Roy Rowland, Lynn Schenk, Karen Shephard, Norm Sisisky.

John Spratt, Charlie Stenholm, Dick Swett, Billy Tauzin, Gene Taylor, Karen Thurman, Tim Valentine, Harold Volkmer.

REPUBLICANS SIGNING BUDGET PROCESS REFORMS LETTER TO SENATOR MITCHELL

Dick Armey, Wayne Allard, Herbert Batemen, John Boehner, Dan Burton, Sonny Callahan, Charles Canady, Mike Castle, Larry Combest, Chris Cox.

Michael Crapo, David Dreier, Jennifer Dunn, Bill Emerson, Harris Fawell, Bob Franks, Elton Gallegly, Jim Greenwood, Wally Herger.

David Hobson, Martin Hoke, Bob Inglis, Nancy Johnson, John Kasich, Scott Klug, Jim Kolbe, Rick Lazio, Jim Leach, Al McCandless.

Bill McCollum, Jim McCrery, John McHugh, Alex McMillan, Jan Meyers, Dan Miller, Susan Molinari, Jim Nussle, John Proter, Rob Portman.

Deborah Pryce, Jack Quinn, Jim Ramstad, Ralph Regula, Rick Santorum, Chris Shays, Lamar Smith, Nick Smith, Olympia Snowe, Gerald Solomon.

Floyd Spence, Charles Taylor, Craig Thomas, Fred Upton, Bob Walker, Don Young, Bill Zeliff, Dick Zimmer.

Mr. ROTH. Madam President, I am proud to join Senator CRAIG and others today in introducing a package of budget process reform measures that are critical to help curb Federal spending. Federal spending has grown dramatically over the past several years, and this package contains four essential reform measures that Congress should pass before its adjournment this fall.

I am particularly enthusiastic about two reform measures that would guarantee that a vote for a spending cut would actually cut spending overall, and not allow that pot of money to be spent on other discretionary programs. The first reform would require that any successful amendment to reduce spending in an appropriations bill could not be spent for other programs. The enforcement mechanism would require that the overall discretionary spending cap would be adjusted downward to reflect the savings in a spending cut amendment.

For example, earlier this summer, I along with Senator SMITH of New Hampshire proposed an amendment to the fiscal year 1995 Commerce, State, Justice appropriations bill to scale back all noncrime-fighting funding for fiscal year 1995 to the current, or enacted level for this fiscal year 1994. This amendment would have saved over \$2.5 billion over the next year. However, even if the Senate adopted our amendment, this \$2.5 billion could have still been spent on other discretionary programs. This loophole must be closed to ensure that a vote to cut spending actually translates into a vote to directly reduce the deficit.

The second reform would restore the integrity of the emergency designation reserved for emergency appropriations that address true natural disasters. In recent years Americans have faced devastating floods, hurricanes, and earthquakes. Yes, I believe that Federal government does have a legitimate role in assisting affected communities. But, it has become commonplace to attach non-emergency funds to an emergency appropriations bill that is exempt from the overall discretionary cap spending limits. This practice must be stopped. This reform would also prohibit conferees from dropping spending cuts included in both House and Senate bills.

The third reform would require Presidential and congressional budgets and CBO cost estimates to be compared to current actual spending, not an inflated baseline that automatically increases spending year after year. This reform would also instruct the Congressional Budget Office to enumerate all Federal programs funded on an automatic basis rather than subject to congressional review and identify the reasons behind their projected growth.

The final budget process reform would require Congress to consider all Presidentially proposed spending rescissions or targeted tax benefit items on an expedited schedule. The reform would also enable the President to strike excessive or low-priority spending items without vetoing an entire appropriations bill. This modified line item veto-expedited rescission measure is critical to reduce Federal expenditures.

As you know, Mr. President, the House has already approved on a bipartisan basis, three of the four reform proposals contained in this bill. There is still time for the Senate to take action on this

package, and I therefore urge that it be considered before our fall adjournment.

Mr. President, I am proud to be an original cosponsor of this bill to reform four critical flaws in our current budget process. The Common cents Budget Reform Act of 1994 is a good first step to curb Federal expenditures. Budget process reform, however, will not take the place of the hard choices that face Senators when casting votes to reduce Federal expenditures, but, in my opinion they are necessary reforms that are long overdue.

September 26, 1994

[From the Congressional Record pages S13328-13330]

Mr. CRAIG addressed the Chair.

The PRESIDING OFFICER (Mr. REID). The Senator from Idaho is recognized.

Mr. CRAIG. Mr. President, I thought it would be an opportune time this afternoon, with the debate of the Senator from Arizona, to present to the Senate, to the chairman from Maryland, the ranking member from Oregon and all that are interested in this process, as we all are, an editorial that appeared in Investor's Business Daily today that I thought was very fitting to the debate in the context of the amendment offered by the Senator from Arizona. The title of the editorial is "Putting Principle First."

The reason I thought it was appropriate is because it places in context the jeopardy—I use the word "jeopardy"—that I believe both political parties are placing themselves in the business-as-usual attitude what we constantly work at here, failing to recognize that I believe the American people are beginning to say very loudly about that business-as-usual attitude.

Let me for a few moments refer to portions of the editorial.

And I also ask unanimous consent that the full text of the editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

PUTTING PRINCIPLE FIRST

Voter anger and cynicism continue to grow because our political leaders refuse to change anything but their rhetoric. Their talk shifts with the wind, but Washington goes on as usual.

Until the parties put forth policies based on principles—and actually follow them—anti-incumbent fever will continue to rage.

The failure to comprehend this is most obvious at the White House, where President Clinton blames his declining popularity on poor communications and fears fanned by special interest that oppose his policies.

In fact, Clinton is unpopular because he has changed little in Washington in two years.

Expert and popular opinion agree, for example, that the just passed crime bill won't reduce crime—let alone put 100,000 more cops on the street.

The declining budget deficit is mainly the result of defense cuts and accounting tricks. The entitlement-spending time-bomb guarantees the deficit will boom again before the end of the decade.

Clinton's biggest initiative by far was his health-care reform plan—an audacious bid to increase government power while talking up market reform.

His chief allies in this battle were the Democratic congressional leadership—reactionaries hoping to recover the glories of the New Deal and the Great Society.

The same alliance has led him to put off welfare reform, oppose term limits and gut potentially beneficial measures like “reinventing government” and proposals on education and job-training.

Washington's Republicans are no better. They collude in ignoring the entitlement mess, shy away from specific spending cuts and secretly fear term limits. Above all else, they are scared to admit to the voters that government can't cure all ills, even under Republicans.

The GOP faces a choice between the Reaganauts and the Nixonites. Nixon perfected the art of channelling voter anger at his opponents during campaigns, but he exacerbated the root causes of that anger while in office.

Nixon first nationalized the crime issue but did nothing about it. He appealed to concerns over moral decline and economic insecurity, but expanded the welfare state and instituted wage and price controls.

Reagan, an American optimist, said the federal government was the problem, not the solution, and did his best to govern by that philosophy. It is no coincidence that public distrust of government fell as Reagan tamed an ambitious bureaucracy.

Bush wrapped himself in Reagan's aura, but soon showed he lacked guiding principles. He successfully exposed Michael Dukakis' liberalism, but in office offered only a watered-down version of the same. Taxes, spending and regulation all boomed as the economy sank.

On Tuesday, House Republicans will unveil an agenda for the next Congress, including such goodies as modest welfare reform and a cut in the tax on capital gains. GOP Senate candidates have already endorsed a similar list.

But as Jack Kemp has already pointed out, there's no grand vision—no serious income-tax cut, no challenge to the perverse incentives of the welfare-entitlement state.

In other words, it's hard to see how big Republican gains in November will bring any more change to Washington than did the arrival of Bill Clinton.

Both U.S. political parties should look at what's happened to their counterparts throughout the West. Recent elections have crippled or destroyed parties in Japan, Canada, Italy, France and Australia. Britain's Tories are on the ropes, saved only by the sorry state of England's Left.

The same fate may await the Democrats this fall.

Republicans may benefit short-term from Clinton's failure. But they will have to elaborate some closely held beliefs and craft policies to reflect them or they will be the next.

Mr. CRAIG. The editorial starts out by talking about:

"Voter anger and cynicism continue to go grow because our political leaders refuse to change anything but their rhetoric. Their talk shifts with the wind, but Washington goes on as usual.

"Until the parties put forth policies based on principles—and actually follow them—anti-incumbent fever will continue to rage.

"The failure to comprehend this is most obvious with the White House, where President Clinton blames his declining popularity on poor communications and fears fanned by special interests that oppose his policies.

"In fact, Clinton is unpopular because he has changed little in Washington in 2 years."

We have changed little in the budget process in the last 2 years. We have talked about budget control and deficit control and yet the deficit continues to grow and the debt becomes even larger and the American people become increasingly angry.

The editorial goes on:

Expert and popular opinion agree, for example, that the just-passed crime bill won't reduce crime—let alone put 100,000 more cops on the street."

"The declining budget deficit"—while it is declining a little bit—"is mainly the result of defense cuts and a few accounting tricks. The entitlement-spending time bomb guarantees the deficit will boom again before the end of the decade."

While the editorial goes on to be critical of President Clinton and the process, I would not be fair to the editorial or the premise of my argument if I did not drop down and read this. It says: "Washington's Republicans are no better. They collude in ignoring the entitlement mess, shy away from specific spending cuts"—of the kind we are talking here today—"and secretly fear term limits. Above all else, they are scared to admit to the voters that Government can't cure all ills, even under Republicans."

In other words, the article was critical of both parties. And it was critical of both parties because we will not stand for reform, we will not talk about the principles on which we believe better Government could run. And so for the next few moments I would like to tell you that there are some who are trying to do that.

Just this week, PHIL GRAMM and those who are running for the Senate here—Senate challengers—brought out seven principles that they say will be key to the debate if another party, my party, is in the majority in the U.S. Senate: Enactment of a balanced budget amendment. Is that a principle? You are darn right it is a principle that many of us have been debating for and agreeing on for many years but never get the two-thirds majority necessary.

Now, I will tell you, if we had a balanced budget amendment to the Constitution, I doubt that the Senator from Arizona would be on the floor today offering an amendment to cut nonauthorized provisions out of an appropriations bill. And the reason is that would not be allowed. There would not be any margins of hundreds of millions of dollars laying around inside a budget because we would have to adhere to the very strict guidelines of a budgetary process that would probably come if we enacted a balanced budget amendment.

Those Senators or candidates who stood before a podium last week on Capitol Hill to talk about the seven principles that would

guide a Republican Senate talked about doubling the income tax exemption of children. In other words, shifting away from Government and shifting back to families and allowing them to have a greater priority of the use of their own money instead of the Federal Government taking it away from them and reprioritizing its spending outside of what a family believes is best for themselves and their children. That is a principle. That is a principle that we used to adhere to years and years ago, until we, in a very creeping and methodical way, decided that Government could do more for people than the people themselves and especially the family unit. And we starved that unit down so that now it is almost impossible for it to operate in the context that we once believed a family unit in American society could operate.

Well, we have debated health care and health care reform, and we will get back to that in another year, hopefully guided by principles of a marketplace in which real people make real decisions about their health instead of a Federal bureaucracy built on making decisions of what is good for people.

I hope we get there. That is a principle that this Government and this Congress ought to be geared toward and that we ought to debate. And it is something that the Investor's Business Daily spoke of today as principles in Government that Americans want to see their two-party system talk about instead of what we have been currently involved in.

There were other issues involved, but let me, in closing, talk about another approach that I and Senator BEN CAMPBELL in a bipartisan way this last week, now signed on by nearly 10 Members of the Senate, believe is part of why we ought to be talking about principle.

We offered for this Senate to review what we call a Common Cents Budget Reform Act. And I think the Budget Committee will begin to look at this next year. The Budget Committee chairman has talked about a hearing on October 5. Well, that is just a few days before adjournment, and I would not expect that we could enact any of these policies this year, but it begins to move us toward principle again.

Baseline budget reform. In other words, look at the budgets as they are each year and decide on what we add or want to add to them, not this automatic escalator that is built into our system when we cut \$200 billion out of a budget and somebody says it is a real cut when in fact it is only a reduction in the rates of increase, a 4- or 5-percent increase instead of a 10 or 12 percent increase. My goodness, that confuses the American people. They do not understand what we are talking about.

We tell them that the budget is cut, and yet the budget is more than it was the year before and they say, "Where are the principles in budgeting? Why are we here talking about projects that were unauthorized to the tune of hundreds of millions of dollars?"

I am not condemning the chairman or the ranking member, because that is the way it has been done. That is the way the process has worked. Is it right or is it wrong? I will not judge it, but the American people are judging it. They are confused. They are growing angry. And as the editorial spoke of today, there is a growing malaise of cynicism across this country that says something is

wrong in Washington and nobody wants to fix it. We know what happens when nobody here fixes it. Those folks outside the Beltway fix it because they send new faces with new messages and a new idea.

In that Common Cents Budget Reform Act that we introduced last Friday, we talked also about guaranteeing that a cut is a cut. In other words, when you cut a budget it does not go over somewhere else and get spent, it actually goes against the deficit. Is that not an exciting idea?

I have served on a few conferences when I would be willing to cut something, only to find another Member grabbing it and adding it to another program. And the American people say then why do you cut? The reason that goes on is because for years the way you got elected was who could deliver the greatest amount of pork to their district or their State. It was a test of their ability as a governing politician. And, thank goodness, the American people are beginning to say, "No, no, that is not going to be a test anymore."

The crime bill, "How much pork can I deliver to my urban area?" The American people, by a poll of now nearly 60 percent said, "Wrong, you misjudged us. We did not want a pork bill. We wanted a crime bill. We wanted criminals off the street. We did not want midnight basketball. We did not want a lot of other things that belonged to the responsibility of the municipality or the State where law enforcement has always been the primary responsibility."

In other words, "Washington, you really cannot judge us very well as a citizenry, as a community. Let us do for ourselves what we think is best. But pass some national laws that get tough on criminals and keep them off the streets. That is what will make American safer." That is part of this debate.

Has it anything to do with the amendment of the Senator from Arizona? Yes, it does in some way, because it is clearly part of that growing cynicism, as I mentioned, that the editorial in that newspaper talked about.

I also, along with Senator CAMPBELL, introduced the modified line-item veto expedited rescission approach. I trust this President or any President to have the right to pull out his pen and walk across an appropriations bill and say, "No, that does not fit my agenda, my spending priorities."

I might happen to disagree with it. But I do, then, believe it is the responsibility of his Senate and the House to be able to vote up or down and say, "Yes, the President is right," or, "No, the President is wrong." It gives an opportunity to air, maybe, some of these special items the Senator from Arizona is talking about today that somehow creep into a budget because it is a special project for a special politician who serves on the right committee. It is now in the RECORD, and I commend to my colleagues' reading, this editorial from Investors Business Daily called "Putting Principle First." It is really something we ought to be about and, hopefully, in the new year and for years ahead we will get to the business of being about.

It comes in the form of budget reform, the balanced budget amendment, the responsibility to stay within the spending limits, willingness of the taxpayers to pay for it instead of borrowing ourselves into nearly \$5 trillion worth of debt that is costing nearly

40 percent of the American taxpayers' tax dollars just to pay interest on principal.

Those are important issues that ought to be debated. When we cannot debate them and when we cannot guide ourselves in those kinds of straight lines, then my guess is we will see, year after year, amendments like that of the Senator from Arizona that in just some little way, tries to pull back a few hundred million dollars and allow it not to be spent, drop the deficit down a little bit, and hopefully get ourselves to a sense of fiscal responsibility so the American citizenry will begin to say: You know, for the first time in decades the Senate of the United States is starting to put principle first and taxpayers first, over the idea of a little more Federal program for a few more people.

HOUSE BILLS

April 1, 1993

[From the Congressional Record page H1856]

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. SPRATT (for himself, Mr. CONYERS, Mr. STENHOLM, Mr. SLATTERY, Mr. DEAL, Mr. JOHNSON of South Dakota, Mr. PAYNE of Virginia, Mr. DOOLEY, Mr. MINGE, Mr. PENNY, Mr. SWETT, Mr. ROEMER, Mrs. MALONEY, Mr. MANN, Mr. SCHUMER, Mr. COPPERSMITH, Mr. GLICKMAN, Mr. CLEMENT, Ms. SCHENK, Mr. DEUTSCH, Mr. ORTON, and Mr. INSLEE):

H.R. 1578. A bill to amend the Congressional Budget and Impoundment Control Act of 1974 to provide for the expedited consideration of certain proposed rescissions of budget authority; jointly, to the Committees on Government Operations and Rules.

103D CONGRESS
1ST SESSION

H. R. 1578

IN THE SENATE OF THE UNITED STATES

MAY 4 (legislative day, APRIL 19), 1993

Received; read twice and referred jointly pursuant to the order of August 4, 1977, to the Committees on the Budget and Governmental Affairs, with instructions that if one Committee reports, the other Committee has thirty days to report or be discharged

AN ACT

To amend the Congressional Budget and Impoundment Control Act of 1974 to provide for the expedited consideration of certain proposed rescissions of budget authority.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the "Expedited Rescissions
5 Act of 1993".

2

1 SEC. 2. EXPEDITED CONSIDERATION OF CERTAIN PRO-
2 POSED RESCISSIONS.

3 (a) IN GENERAL.—Part B of title X of the Congres-
4 sional Budget and Impoundment Control Act of 1974 (2
5 U.S.C. 681 et seq.) is amended by redesignating sections
6 1013 through 1017 as sections 1014 through 1018, re-
7 spectively, and inserting after section 1012 the following
8 new section:

9 “EXPEDITED CONSIDERATION OF CERTAIN PROPOSED
10 RESCISSIONS

11 “SEC. 1013. (a) PROPOSED RESCISSION OF BUDGET
12 AUTHORITY.—In addition to the method of rescinding
13 budget authority specified in section 1012, the President
14 may propose, at the time and in the manner provided in
15 subsection (b), the rescission of any budget authority pro-
16 vided in an appropriation Act. Funds made available for
17 obligation under this procedure may not be proposed for
18 rescission again under this section or section 1012.

19 “(b) TRANSMITTAL OF SPECIAL MESSAGE.—

20 “(1) Not later than 3 calendar days after the
21 date of enactment of an appropriation Act, the
22 President may transmit to Congress one special mes-
23 sage proposing to rescind amounts of budget author-
24 ity provided in that Act and include with that special
25 message a draft bill that, if enacted, would only re-
26 scind that budget authority. That bill shall clearly

1 identify the amount of budget authority that is pro-
2 posed to be rescinded for each program, project, or
3 activity to which that budget authority relates.

4 “(2) In the case of an appropriation Act that
5 includes accounts within the jurisdiction of more
6 than one subcommittee of the Committee on Appro-
7 priations, the President in proposing to rescind
8 budget authority under this section shall send a sep-
9 arate special message and accompanying draft bill
10 for accounts within the jurisdiction of each such sub-
11 committee.

12 “(3) Each special message shall specify, with
13 respect to the budget authority proposed to be re-
14 scinded, the matters referred to in paragraphs (1)
15 through (5) of section 1012(a).

16 “(c) PROCEDURES FOR EXPEDITED CONSIDER-
17 ATION.—

18 “(1)(A) Before the close of the second legisla-
19 tive day of the House of Representatives after the
20 date of receipt of a special message transmitted to
21 Congress under subsection (b), the majority leader
22 or minority leader of the House of Representatives
23 shall introduce (by request) the draft bill accom-
24 panying that special message. If the bill is not intro-
25 duced as provided in the preceding sentence, then,

4

1 on the third legislative day of the House of Rep-
2 resentatives after the date of receipt of that special
3 message, any Member of that House may introduce
4 the bill.

5 “(B)(i) The bill shall be referred to the Com-
6 mittee on Appropriations of the House of Represent-
7 atives. The committee shall report the bill without
8 substantive revision, and with or without rec-
9 ommendation. The bill shall be reported not later
10 than the seventh legislative day of that House after
11 the date of receipt of that special message. If the
12 Committee on Appropriations fails to report the bill
13 within that period, that committee shall be auto-
14 matically discharged from consideration of the bill,
15 and the bill shall be placed on the appropriate cal-
16 endar.

17 “(ii) The Committee on Appropriations may re-
18 port to the House, within the 7-legislative-day period
19 described in clause (i), an alternative bill which—

20 “(I) contains only rescissions to the same
21 appropriation Act as the bill for which it is an
22 alternative; and

23 “(II) which rescinds an aggregate amount
24 of budget authority equal to or greater than the

1 aggregate amount of budget authority rescinded
2 in the bill for which it is an alternative.

3 “(C) A vote on final passage of the bill referred
4 to in subparagraph (B)(i) shall be taken in the
5 House of Representatives on or before the close of
6 the 10th legislative day of that House after the date
7 of the introduction of the bill in that House. If the
8 bill is passed, the Clerk of the House of Representa-
9 tives shall cause the bill to be engrossed, certified,
10 and transmitted to the Senate within one calendar
11 day of the day on which the bill is passed.

12 “(D) Upon rejection of the bill described in
13 subparagraph (B)(i) on final passage, a motion in
14 the House to proceed to consideration of the alter-
15 native bill reported from the Committee on Appro-
16 priations under subparagraph (B)(ii) shall be highly
17 privileged and not debatable.

18 “(E) A vote on final passage of the bill referred
19 to in subparagraph (B)(ii) shall be taken in the
20 House of Representatives on or before the close of
21 the 11th legislative day of that House after the date
22 of the introduction of the bill in that House for
23 which it is an alternative. If the bill is passed, the
24 Clerk of the House of Representatives shall cause
25 the bill to be engrossed, certified, and transmitted to

1 the Senate within one calendar day of the day on
2 which the bill is passed.

3 “(2)(A) A motion in the House of Representa-
4 tives to proceed to the consideration of a bill under
5 this section shall be highly privileged and not debat-
6 able. An amendment to the motion shall not be in
7 order, nor shall it be in order to move to reconsider
8 the vote by which the motion is agreed to or dis-
9 agreed to.

10 “(B) Debate in the House of Representatives
11 on a bill under this section shall not exceed 4 hours,
12 which shall be divided equally between those favoring
13 and those opposing the bill. A motion further to
14 limit debate shall not be debatable. It shall not be
15 in order to move to recommit a bill under this sec-
16 tion or to move to reconsider the vote by which the
17 bill is agreed to or disagreed to.

18 “(C) Appeals from decisions of the Chair relat-
19 ing to the application of the Rules of the House of
20 Representatives to the procedure relating to a bill
21 under this section shall be decided without debate.

22 “(3)(A) A bill transmitted to the Senate pursu-
23 ant to paragraph (1) (C) or (E) shall be referred to
24 its Committee on Appropriations. The committee
25 shall report the bill either without substantive revi-

1 sion or with an amendment in the nature of a sub-
2 stitute, and with or without recommendation. The
3 bill shall be reported not later than the seventh leg-
4 islative day of the Senate after it receives the bill.
5 A committee failing to report the bill within such pe-
6 riod shall be automatically discharged from consider-
7 ation of the bill, and the bill shall be placed upon
8 the appropriate calendar.

9 “(B) A vote on final passage of a bill transmit-
10 ted to the Senate shall be taken on or before the
11 close of the 10th legislative day of the Senate after
12 the date on which the bill is transmitted.

13 “(4)(A) A motion in the Senate to proceed to
14 the consideration of a bill under this section shall be
15 privileged and not debatable. An amendment to the
16 motion shall not be in order, nor shall it be in order
17 to move to reconsider the vote by which the motion
18 is agreed to or disagreed to.

19 “(B) Debate in the Senate on a bill under this
20 section, and all amendments thereto and all debat-
21 able motions and appeals in connection therewith,
22 shall not exceed 10 hours. The time shall be equally
23 divided between, and controlled by, the majority
24 leader and the minority leader or their designees.

1 “(C) Debate in the Senate on any debatable
2 motion or appeal in connection with a bill under this
3 section shall be limited to not more than 1 hour, to
4 be equally divided between, and controlled by, the
5 mover and the manager of the bill, except that in
6 the event the manager of the bill is in favor of any
7 such motion or appeal, the time in opposition there-
8 to, shall be controlled by the minority leader or his
9 designee. Such leaders, or either of them, may, from
10 time under their control on the passage of a bill,
11 allot additional time to any Senator during the con-
12 sideration of any debatable motion or appeal.

13 “(D) A motion in the Senate to further limit
14 debate on a bill under this section is not debatable.
15 A motion to recommit a bill under this section is not
16 in order.

17 “(d) AMENDMENTS AND DIVISIONS GENERALLY

18 PROHIBITED.—(1) Except as provided by paragraph (2),
19 no amendment to a bill considered under this section or
20 to a substitute amendment referred to in paragraph (2)
21 shall be in order in either the House of Representatives
22 or the Senate. It shall not be in order to demand a division
23 of the question in the House of Representatives (or in a
24 Committee of the Whole) or in the Senate. No motion to
25 suspend the application of this subsection shall be in order

1 in either House, nor shall it be in order in either House
2 to suspend the application of this subsection by unanimous
3 consent.

4 “(2)(A) It shall be in order in the Senate to consider
5 an amendment in the nature of a substitute reported by
6 the Committee on Appropriations under subsection
7 (c)(3)(A) that complies with subparagraph (B).

8 “(B) It shall only be in order in the Senate to con-
9 sider any amendment described in subparagraph (A) if—

10 “(i) the amendment contains only rescissions to
11 the same appropriation Act as the bill that it is
12 amending contained; and

13 “(ii) the aggregate amount of budget authority
14 rescinded equals or exceeds the aggregate amount of
15 budget authority rescinded in the bill that it is
16 amending;

17 unless that amendment consists solely of the text of the
18 bill as introduced in the House of Representatives that
19 makes rescissions to carry out the applicable special mes-
20 sage of the President.

21 “(C) It shall not be in order in the Senate to consider
22 a bill or an amendment in the nature of a substitute re-
23 ported by the Committee on Appropriations under sub-
24 section (c)(3)(A) unless the Senate has voted upon and
25 rejected an amendment in the nature of a substitute con-

1 sisting solely of the text of the bill as introduced in the
2 House of Representatives that makes rescissions to carry
3 out the applicable special message of the President.

4 “(e) REQUIREMENT TO MAKE AVAILABLE FOR OBLI-
5 GATION.—Any amount of budget authority proposed to be
6 rescinded in a special message transmitted to Congress
7 under subsection (b) shall be made available for obligation
8 on the earlier of—

9 “(1) the day after the date upon which the
10 House of Representatives defeats the bill transmit-
11 ted with that special message rescinding the amount
12 proposed to be rescinded and (if reported by the
13 Committee on Appropriations) the alternative bill; or

14 “(2) the day after the date upon which the Sen-
15 ate rejects a bill or amendment in the nature of a
16 substitute consisting solely of the text of the bill as
17 introduced in the House of Representatives that
18 makes rescissions to carry out the applicable special
19 message of the President.

20 “(f) DEFINITIONS.—For purposes of this section—

21 “(1) the term ‘appropriation Act’ means any
22 general or special appropriation Act, and any Act or
23 joint resolution making supplemental, deficiency, or
24 continuing appropriations; and

1 “(2) the term ‘legislative day’ means, with re-
2 spect to either House of Congress, any calendar day
3 during which that House is in session.”.

4 (b) **EXERCISE OF RULEMAKING POWERS.**—Section
5 904 of such Act (2 U.S.C. 621 note) is amended—

6 (1) by striking “and 1017” in subsection (a)
7 and inserting “1013, and 1018”; and

8 (2) by striking “section 1017” in subsection (d)
9 and inserting “sections 1013 and 1018”; and

10 (c) **CONFORMING AMENDMENTS.**—

11 (1) Section 1011 of such Act (2 U.S.C. 682(5))
12 is amended—

13 (A) in paragraph (4), by striking “1013”
14 and inserting “1014”; and

15 (B) in paragraph (5)—

16 (i) by striking “1016” and inserting
17 “1017”; and

18 (ii) by striking “1017(b)(1)” and in-
19 serting “1018(b)(1)”.

20 (2) Section 1015 of such Act (2 U.S.C. 685)
21 (as redesignated by section 2(a)) is amended—

22 (A) by striking “1012 or 1013” each place
23 it appears and inserting “1012, 1013, or
24 1014”;

12

1 (B) in subsection (b)(1), by striking
2 "1012" and inserting "1012 or 1013";

3 (C) in subsection (b)(2), by striking
4 "1013" and inserting "1014"; and

5 (D) in subsection (e)(2)—

6 (i) by striking "and" at the end of
7 subparagraph (A);

8 (ii) by redesignating subparagraph
9 (B) as subparagraph (C);

10 (iii) by striking "1013" in subpara-
11 graph (C) (as so redesignated) and insert-
12 ing "1014"; and

13 (iv) by inserting after subparagraph
14 (A) the following new subparagraph:

15 "(B) he has transmitted a special message
16 under section 1013 with respect to a proposed
17 rescission; and".

18 (3) Section 1016 of such Act (2 U.S.C. 686)
19 (as redesignated by section 2(a)) is amended by
20 striking "1012 or 1013" each place it appears and
21 inserting "1012, 1013, or 1014".

22 (d) CLERICAL AMENDMENTS.—The table of sections
23 for subpart B of title X of such Act is amended—

1 (1) by redesignating the items relating to sec-
2 tions 1013 through 1017 as items relating to sec-
3 tions 1014 through 1018; and

4 (2) by inserting after the item relating to sec-
5 tion 1012 the following new item:

 "Sec. 1013. Expedited consideration of certain proposed rescissions."

6 **SEC. 3. APPLICATION.**

7 (a) **IN GENERAL.**—Section 1013 of the Congressional
8 Budget and Impoundment Control Act of 1974 (as added
9 by section 2) shall apply to amounts of budget authority
10 provided by appropriation Acts (as defined in subsection
11 (f) of such section) that are enacted during the One Hun-
12 dred Third Congress.

13 (b) **SPECIAL TRANSITION RULE.**—Within 3 calendar
14 days after the beginning of the One Hundred Fourth Con-
15 gress, the President may retransmit a special message, in
16 the manner provided in section 1013(b) of the Congres-
17 sional Budget and Impoundment Control Act of 1974 (as
18 added by section 2), proposing to rescind only those
19 amounts of budget authority that were contained in any
20 special message to the One Hundred Third Congress
21 which that Congress failed to consider because of its sine
22 die adjournment before the close of the time period set
23 forth in such section 1013 for consideration of those pro-
24 posed rescissions. A draft bill shall accompany that special
25 message that, if enacted, would only rescind that budget

1 authority. Before the close of the second legislative day
2 of the House of Representatives after the date of receipt
3 of that special message, the majority leader or minority
4 leader of the House of Representatives shall introduce (by
5 request) the draft bill accompanying that special message.
6 If the bill is not introduced as provided in the preceding
7 sentence, then, on the third legislative day of the House
8 of Representatives after the date of receipt of that special
9 message, any Member of that House may introduce the
10 bill. The House of Representatives and the Senate shall
11 proceed to consider that bill in the manner provided in
12 such section 1013.

13 **SEC. 4. TERMINATION.**

14 The authority provided by section 1013 of the Con-
15 gressional Budget and Impoundment Control Act of 1974
16 (as added by section 2) shall terminate 2 years after the
17 date of enactment of this Act.

18 **SEC. 5. JUDICIAL REVIEW.**

19 (a) **EXPEDITED REVIEW.**—

20 (1) Any Member of Congress may bring an ac-
21 tion, in the United States District Court for the Dis-
22 trict of Columbia, for declaratory judgment and in-
23 junctive relief on the ground that any provision of
24 section 1013 (as added by section 2) violates the
25 Constitution.

1 (2) A copy of any complaint in an action
2 brought under paragraph (1) shall be promptly de-
3 livered to the Secretary of the Senate and the Clerk
4 of the House of Representatives, and each House of
5 Congress shall have the right to intervene in such
6 action.

7 (3) Any action brought under paragraph (1)
8 shall be heard and determined by a three-judge
9 court in accordance with section 2284 of title 28,
10 United States Code.

11 Nothing in this section or in any other law shall infringe
12 upon the right of the House of Representatives to inter-
13 vene in an action brought under paragraph (1) without
14 the necessity of adopting a resolution to authorize such
15 intervention.

16 (b) APPEAL TO SUPREME COURT.—Notwithstanding
17 any other provision of law, any order of the United States
18 District Court for the District of Columbia which is issued
19 pursuant to an action brought under paragraph (1) of sub-
20 section (a) shall be reviewable by appeal directly to the
21 Supreme Court of the United States. Any such appeal
22 shall be taken by a notice of appeal filed within 10 days
23 after such order is entered; and the jurisdictional state-
24 ment shall be filed within 30 days after such order is en-
25 tered. No stay of an order issued pursuant to an action

1 brought under paragraph (1) of subsection (a) shall be
2 issued by a single Justice of the Supreme Court.

3 (c) **EXPEDITED CONSIDERATION.**—It shall be the
4 duty of the District Court for the District of Columbia
5 and the Supreme Court of the United States to advance
6 on the docket and to expedite to the greatest possible ex-
7 tent the disposition of any matter brought under sub-
8 section (a).

Passed the House of Representatives April 29, 1993.

Attest: DONNALD K. ANDERSON,
Clerk.

[From the Congressional Record pages D334-336]

Committee Meetings

EXPEDITED RESCISSIONS ACT OF 1993

Committee on Rules: Granted a rule providing two hours of general debate in the House on H.R. 1578, to amend the Congressional Budget and Impoundment Control Act of 1974 to provide for the expedited consideration of certain proposed rescissions of budget authority. The rule makes in order as an original bill for the purpose of amendment the amendment in the nature of a substitute printed in part 1 of the report to accompany the rule. The rule makes in order no other amendments except those printed in part 2 of the report, to be considered in the order and manner specified. The amendments are not subject to amendment except as specified nor to a demand for a division. All points of order against the report are waived. Finally, the rule provides one motion to recommit with or without instructions. Testimony was heard from Representatives Spratt, Clinger, Rostenkowski, Mineta, Stenholm, Minge, Deal, Deutsch, Inslee, Shuster, Duncan, Castle, Quinn, and Blute.

April 28, 1993

[From the Congressional Record pages H2067-2078]

PROVIDING FOR CONSIDERATION OF H.R. 1578, EXPEDITED RESCISSIONS ACT OF 1993

Mr. DERRICK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 149 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 149

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 1578) to amend the Congressional Budget and Impoundment Control Act of 1974 to provide for the expedited consideration of certain proposed rescissions of budget authority. The first reading of the bill shall be dispensed with. General debate shall be confined to the bill and shall not exceed two hours, with one hour to be equally divided and controlled by the chairman and ranking minority member of the Committee on Rules and one hour to be equally divided and controlled by the chairman and ranking minority member of the Committee on Government Operations. After general debate the bill shall be considered as read for amendment under the five-minute rule. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute printed in part 1 of the report of the Committee on Rules accompanying this resolution. The amendment in the nature of a substitute shall be considered as read. No amendment to the amendment in the nature of a substitute shall be in order except those printed in part 2 of the report of the Committee on

Rules. Each amendment may be offered only in the order printed, may be offered only by the named proponent or a designee, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment except as specified in the report, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. All points of order against the amendments printed in the report are waived. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the amendment in the nature of a substitute made in order as original text. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore (Mr. DURBIN). The gentleman from South Carolina [Mr. DERRICK] is recognized for 1 hour.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from New York [Mr. SOLOMON] pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purposes of debate only.

GENERAL LEAVE

Mr. DERRICK. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the resolution presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from South Carolina?

There was no objection.

Mr. DERRICK. Mr. Speaker, House Resolution 149 makes in order the consideration of H.R. 1578, the Expedited Rescissions Act of 1993. The resolution provides for 2 hours of general debate, 1 hour equally divided and controlled by the chairman and ranking minority member of the Committee on Rules, and 1 hour equally divided and controlled by the chairman and ranking minority member of the Committee on Government Operations.

The resolution makes in order as an original bill for the purpose of amendment an amendment in the nature of a substitute printed in part 1 of the report accompanying the resolution.

No other amendment is in order except those printed in part 2 of the report, which shall be considered as read and considered only as specified in the report, which is as follows: first, an amendment in the nature of a substitute by, and if offered by Representative CASTLE or Representative SOLOMON, or a designee, debatable for 1 hour, equally divided and controlled by the proponent and an opponent; and second, an amendment made in order only to the Castle-Solomon amendment by, and if offered by Representative MICHEL or a designee, debatable for 30 minutes, equally divided and controlled by the proponent and an opponent.

The amendments are not subject to amendment or to a demand for a division of the question in the House or the Committee of the

Whole. The resolution waives all points of order against the amendments printed in the report. In the case of the Michel amendment all points of order are waived only as it pertains to the Castle-Solomon amendment.

The resolution provides that any Member may demand a separate vote in the House on any amendment to the bill or the amendment in the nature of a substitute made in order as original text. Finally, the resolution provides for one motion to recommit, with or without instructions.

Mr. Speaker, in his State of the Union Address delivered in this very Chamber on February 17, our new President outlined a bold plan to restore the American dream for us and our children.

The President's plan represents a drastic change from the status quo. The President wants to reject the policies and practices of the past which have quadrupled our debt and left many Americans believing their Government doesn't work. The people want change, and the President's program offers change for the betterment of our Nation.

The legislation made in order by this rule would give the President one of the key changes he has sought, and which I believe we desperately need: A modified line-item veto.

Mr. Speaker, we all know wasteful spending sometimes occurs because individual items can escape scrutiny by being submerged in large appropriations bills.

Under current procedures a President cannot strike out individual items in appropriations acts. He must sign or veto the whole act, whatever the consequences. H.R. 1578 would give the President an option he does not now have.

Under H.R. 1578, within 3 days of signing an appropriations act the President could send the House a message and bill proposing to rescind, or cancel, individual spending items in that act.

The President's proposal would be referred to the Appropriations Committee. That committee must report it to the floor without amendment within 7 days. The House must vote, up or down, on the President's bill within 10 days of introduction. During this time the funds would not be spent. If the bill passed the House, it would go to the Senate for expedited consideration there, and if passed by the Senate, on to the President for his signature.

To avoid the possibility a President might use this procedure not primarily to reduce the deficit, but instead to promote his own pet projects, H.R. 1578 would allow the Appropriations Committee to report to the House, simultaneously with the President's bill, an alternative. To qualify for expedited consideration, the committee's bill must propose to cancel spending from the same appropriations act the President drew his rescissions from, and it must propose to cancel an amount of spending equal to or exceeding the President's total.

If the committee reported an alternative, the House would first vote on the President's bill; if adopted by a majority vote, the President's bill would go to the Senate for expedited consideration and the alternative would not be in order. If the House rejected the President's bill and passed the alternative, that bill would go to the Senate instead.

The Senate Appropriations Committee could also report an alternative bill. But it would not be in order to consider anything but the President's bill until the Senate first voted on and rejected the President's bill. The President is thus guaranteed a vote on his proposal.

If both Houses ultimately passed an alternative bill instead, then those funds would be canceled. Thus, under H.R. 1578, if either the President's bill or an alternative bill passed both houses, spending will be cut and the American taxpayer would be the big winner.

Mr. Speaker, the President supports H.R. 1578 because he believes with a modified line-item veto millions and perhaps billions of dollars might be saved. These are dollars which our taxpayers worked and earned by the sweat of their brows and sent to Washington to fund the essential activities of Government, not to be squandered on ridiculous pork barrel projects.

This bill gives the President the tool he needs to block pork barrel projects like asparagus research, renovating Lawrence Welk's birthplace, or studying the aggressive tendencies of fish in Nicaragua. It will give the President the ability to force Congress to go on the record regarding researching cockroaches, or why people fall in love, or building schools for North Africans in France.

Mr. Speaker, these kinds of pork are an embarrassment which we can clearly not afford. The American people won't stand for them, and we haven't any business asking them to do so.

Quite simply, H.R. 1578 will create accountability. No longer will a President be able to sign an appropriations act containing wasteful items and claim he was powerless to block them.

No longer will Congress be able to force upon the President the dilemma of vetoing an entire act and shutting down the Government, or signing the whole thing, bacon and all. If Congress wants to appropriate funds for these purposes, then a majority of either House need only stand up and be counted. If the President does not want them, then he has the responsibility to send them back. It is that simple, and I believe it will work.

Mr. Speaker, last year I held extensive hearings in my subcommittee on various legislative line-item veto proposals, and brought the forerunner of H.R. 1578 to the floor, where it passed by a vote of 312 to 97. The bill before us today is, in my opinion, a better bill than last year's. It deserves our strong support.

The rule also deserves our strong support. It makes in order a Republican substitute, an amendment thereto offered by the minority leader or his designee, and it does not restrict the motion to recommit. Many issues have already been worked out; the rule will allow a full airing of the remainder. I urge all Members to support the rule and the bill, and I reserve the balance of my time.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to welcome my colleagues to the "Hour of Power." This occasion is truly a sign of just how powerful the Rules Committee is, since today we are beginning the third hour on this rescission rule under what is called the 1-hour rule. And Mr. Speaker, only the Rules Committee can turn 1 hour into 3.

My colleagues will recall that on April 2, when we first took up this rule, we debated it for nearly the full hour allotted, and then

we were treated to a 15-minute quorum call that stretched into more than another hour.

Did it really take the House that long to achieve a quorum? No; 405 Members had already answered to their names after the requisite 15 minutes, and that did not change any over the next 45 minutes.

But the Democrat leadership was apparently not altogether satisfied with that turnout for some reason because it continued to roam the floor and the corridors looking for certain Members.

And when the Speaker finally banged his gavel, and announced the presence of the same 405 Members who had been sitting around for that whole hour, the majority manager for the rule announced that he was withdrawing it.

Mr. Speaker, I had hoped that all this was a sign that the Democrat Party in the House was about to turn into true, small-d democrats again, and send this restrictive rule back to the Rules Committee to open it up to additional amendments.

But my hopes for an Easter miracle in this House have been dashed on the rocks of reality, and we are back here once again for the third hour on this same old rule.

Mr. Speaker, this rule, House Resolution 149, which makes in order this expedited rescission bill, is the 10th consecutive modified closed or closed rule reported in this Congress. Not one rule has been fully open to amendments.

Over the last 3 months, we on the Republican side have been trying to impress upon our Democrat colleagues and the American people that when we complain about closed rules we are not simply engaging in some procedural, partisan tantrum. We are instead trying to warn against what we perceive as the intentional undermining of our democracy in this House. And it is happening right here in the people's House, of all places.

Mr. Speaker, sometimes it is hard to convey to the average citizen what all this fuss over restrictive rules is about. But when you tell them that they are being robbed of their full right to representation in the House of Representatives because a committee says their Congressman cannot offer amendments, they begin to see things in a different light.

As a matter of fact, they begin to see red.

I would have you read these letters from West Virginia, Tennessee, Kentucky, Ohio, Alabama, Florida, California, everywhere in the Nation; people are beginning to wake up.

Mr. Speaker, things have gotten so bad that our Republican leadership has found it necessary to create a task force on deliberative democracy in the House to try to restore full voting and amendment rights to Members, and full representational rights to the American people.

I am privileged to chair that task force for our leadership, and we have a good group of Republican Members on the task force who have vowed to fight to reopen This People's House to the people. And we will not give up ladies and gentleman.

Several days ago, we issued our first report in which we concluded that deliberative democracy is in a dangerous state of decline in the House, and if that decline is not reversed, we are going

to get bad bills, bad policies, and more bad marks from the American people. How much worse can they get?

This Democrat leadership policy of closing down bills to amendments is undermining our democracy and the people's confidence in their government. The majority Democrat leadership seems to think that the people are going to applaud them for ending gridlock, even if it means putting democracy under a strong-arm hammerlock.

Well, I have got news for you. The people I have been hearing from around the country that I have just mentioned, letters from South Carolina, and Utah, from all over for instance, do not like what is being done to them by these rules one bit. They want back into their own House and they want in now, ladies and gentlemen. It is going to come back to haunt you.

Today, we have another restricted rule that allows for just two amendments. And, while one of those two amendments happens to have my name on it along with 43 freshman Republicans, I cannot support this rule, because you are gagging the American people.

Instead, I offered in the Rules Committee a substitute open rule that would have specifically allowed our Republican leader to amend the so-called Spratt bill that is the base text of the bill by allowing any President, whoever he might be, to line out special pork in this form of special tax exemptions. Nothing is more aggravating than to have some industry in Chicago get a special break when some industry in Albany, NY, has to pay the full price. That is wrong.

And yet, the Rules Committee turned down the Republican leader's request to have that amendment made in order to the base bill. What have we come to as a House when the majority Democrats on the Rules Committee coldly and callously stiff the Republican leader?

Mr. Speaker, I do not think it is unreasonable on something as important as the issue of line-item veto to have an open amendment process.

This is not the Tax Code, let alone rocket science.

I do not think it is unreasonable to have a process whereby we try to reach a consensus approach that takes the best from both parties—the best from all Members of this House regardless of party.

That was the message the American people really had for all of us last fall. Stop your partisan gamesmanship and bickering and work together for the good of the country. That is the message I heard.

And yet it is difficult to work together when the majority leadership says, "Most Members of this House don't deserve to participate in the legislative process. Their ideas aren't worth it. Their amendments aren't worth it. And the people they represent aren't worth it. You had better start thinking about that, ladies and gentlemen."

"Instead, we are going to substitute the wisdom of a few Democratic leaders and a couple of Rules Committee members for the collective judgment of 435 Members and your constituents."

That is what the Democratic leadership is saying by these rules. Well, I for one say the time has come to stop being elitist, stop the

"pappa knows best" attitude which treats the rest of the Members and their constituents like children.

Ladies and gentlemen, you can vote down this rule. We can come back with an open rule, and every single one of you, every single one of you, like the Wall Street Journal says here right now, "The push to replace the line-item veto with a sham substitute is typical of how Congress is dealing with reform in this session. It is faking it." And that is why you and I and the rest of this body are held in the lowest esteem in history. You ought to be ashamed of it. You ought to vote down this rule and give us a fair shot on the floor of this House.

Mr. Speaker, I reserve the balance of my time.

Mr. DERRICK. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the rule before this body is fair. It gives the Republicans their chance. It gives the Democrats their opportunity. And through the means of recommitment, it gives the Republicans an opportunity to put anything they want to in a motion to recommit, provided it is germane. No rule that could be fairer.

Having said that, I yield 1½ minutes to the distinguished gentleman from Florida [Mr. DEUTSCH].

Mr. DEUTSCH. I thank the gentleman for yielding this time to me.

Mr. Speaker, President Clinton ran for President as a new Democrat, as a Democrat who is fiscally responsible.

He had a message, a message that just because you are a Democrat does not mean you are an economic fool.

There is a \$4 trillion debt that exists in this country, a cancer on our country, a cancer that is affecting our lives and our children and our grandchildren. And that \$4 trillion debt has occurred under Democratic and Republican Presidents. It has occurred under Democratic and Republican Congresses.

Before I came here, I served 10 years in the Florida Legislature, where I served under both Republican and Democratic Governors, who used the line-item veto well and successfully for the State. This is an opportunity for the United States to join 43 other States in this country and have a line-item veto that works.

Make no mistake, the vote on the rule is the vote on fiscal responsibility. Use words and make expressions, anything you want, but that is the true vote, as the National Tax Union has said and all of us know here today.

Mr. SOLOMON. Mr. Speaker, I yield such time as he may consume to our distinguished Republican leader, the gentleman from Illinois, Mr. BOB MICHEL.

Mr. MICHEL. Mr. Speaker, I rise to strongly urge my colleagues to vote against the rule before us today providing for consideration of the Expedited Rescission Act and applaud the gentleman from New York [Mr. SOLOMON] for his remarks made earlier on the leader's behalf with respect to the amendment we have pending.

It is yet another closely structured rule presented by the Democratic majority of the House to reach the outcome that the Democrats desire.

Now, if this rule is agreed to, the Democrats could then probably pass an imposter for the line-item veto and tout it to the American people as real action on a presidential line-item veto.

I do not know how many of you saw the Wall Street Journal this morning, but they editorialized forcefully this morning that the Democrat's proposal is a sham substitute for the line-item veto.

Yes, this rule does allow consideration of a Republican substitute, a real legislative line-item veto. And it also allows for consideration of my amendment to include special tax provisions as items that may be vetoed by the President.

But my amendment is allowed only as an amendment to the real legislative line-item veto to be offered by Representative CASTLE, a proposal that we do not quite possibly have the votes to pass in this body. My amendment was not made in order to be offered to the Democratic proposal, as I had requested of the Rules Committee, because it may jeopardize passage of the Democrat leadership position. My amendment, having to do with tax trinkets in addition to pork barrel spending on appropriation bills, has gained much popularity. The rule does preclude other amendments sought by Members to improve the bill. Amendments advocated by any Member, including Members on the Democratic side, freshman Members, that may jeopardize the ultimate conclusion sought by the Democratic leadership have been squelched by this rule.

So we really ought to have, as far as this Member is concerned, an open rule that also allows for consideration of my amendment that would allow, as I indicated, special-interest tax provisions to be vetoed by the President, as well as appropriation provisions.

By way of quick review, when we passed the tax bill in the last Congress, H.R. 11, it contained over 50 specific special interest tax provisions there that had nothing to do whatsoever with the original intent of the tax bill, and that was to fund enterprise zones for the cities as a result of the Los Angeles riots.

So a tax bill can be completely loaded up with special interest tax provisions by the Congress; not by the administration. The President ought to have an opportunity to remedy that. It is a very popular amendment that I conceived earlier on, and we would like to have it made in order to the base bill, which obviously has the most support because of the numbers game in this House. We are outnumbered on the Republican side by 83 votes. And so it takes much more than a unanimous vote on our side to pass anything around here—we need a significant portion of the votes from the Democratic side. In my opinion, considering the special-interest tax provisions is a legitimate issue. It should be debated in relation to presidential line-item veto authority of appropriation items.

Since this is not an open rule and since this is an attempt by the Democratic majority to guarantee passage of a mere shadow of a line-item veto, thereby precluding consideration of a real line-item veto, I urge a "no" vote on the rule.

I want to direct my attention particularly to some of our new freshman Members who came to this body particularly espousing a line-item veto. I have always supported a line-item veto, going back to the Carter administration days. I believe it is a good management tool. But it has got to have teeth if it is going to be worth

anything and not simply expedited rescission, which, for all practical purposes, is speeding up the existing process by 25 days.

I urge all of the Members on our side, including our freshman Members, who may very well have come to this Congress thinking they are going to have an opportunity to vote on a line-item veto, to make the sharp distinction between what is real and what is phony. If we all stand together as a body and make the case that the Democrat's proposal is not a real line-item veto, it will make sense to the American people because they say you cannot have 176 people on our side of the aisle be wrong.

This position is a judgment call on our part in the leadership, but we think it is a good one. And we have made some good progress in the last couple of weeks sticking together as a body and making our point in no unmistakable terms. That is the way you eventually get things done around here.

Mr. Speaker, I urge my colleagues to vote "no" on this rule until we get a better one that gives us the opportunity to do what the American people really want.

Mr. DERRICK. I yield myself such time as I may consume.

Let me just say that the leader on the line-item veto in this body for years and years and years, Mr. STENHOLM, is the coauthor of this bill that we have before us. He considers it legitimate, and so does most of the rest of the House.

Mr. SOLOMON. Would my friend yield?

Mr. DERRICK. Mr. Speaker, I yield for the purpose of debate only 90 seconds to the gentleman from Georgia [Mr. DEAL].

Mr. SOLOMON. Mr. Speaker, will the gentleman yield?

Mr. DERRICK. You have your own time. You can use it.

Mr. SOLOMON. The gentleman won't yield?

Mr. DERRICK. You have your own time. You can use it.

Mr. SOLOMON. Just trying to be polite to my friend. If you don't want to be polite, fine.

The SPEAKER pro tempore (Mr. DURBIN). Regular order.

The gentleman from Georgia [Mr. DEAL] is recognized for 90 seconds.

Mr. DEAL. Mr. Speaker, there are times when historic events engulf us, moments in time when the significance of them are magnified by our reflection upon them. I suggest to you that today is such a time.

It is the first, and perhaps the last, time that we will have the opportunity to vote on the line-item veto. I urge you to vote for the rule so that the merits of both the Democratic proposal and the Republican proposals may be considered. Do not be deceived. This is the vote on the line-item veto.

If you vote against the rule and block its consideration, you will never have the opportunity to properly explain it away.

No, it is not a constitutional amendment. But are you willing to wait for the years that it will take to ratify a constitutional amendment?

No, it is not all that some of us would like to have, but it is the first significant step toward fiscal responsibility that has been laid before us.

It is time to put principle ahead of party. It is time to vote on measures based on their merits rather than where they fit into somebody's political agenda.

The public is tired of political posturing. I urge you to vote for the rule and to vote for the line-item veto.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume.

The reason I wanted my good friend, the gentleman from South Carolina [Mr. DERRICK] to yield, was that I wanted to read the gentleman's statement on April 1 in the RECORD of Mr. STENHOLM, who absolutely opposed the line-item veto. Mr. STENHOLM says:

"I will oppose that. I have always opposed the pure line-item veto. I do not believe in giving any President one-third plus one veto authority on the works of the Congress. I think it unbalances the balancing power."

The gentleman from Texas [Mr. STENHOLM] will be on this floor later. He will tell you that he opposes the line-item veto.

Mr. DERRICK. Mr. Speaker, will the gentleman yield for a moment?

Mr. SOLOMON. Out of courtesy, Mr. Speaker, the gentleman would not yield to me, but I am glad to yield to the gentleman.

Mr. DERRICK. Mr. Speaker, I think the gentleman is going to enjoy hearing what I have to say. I misspoke. The gentleman is correct.

Mr. SOLOMON. Mr. Speaker, I thank the gentleman so much. I have always said, the gentleman is a gentleman.

Mr. Speaker, I yield 2 minutes to the other gentleman from Pennsylvania [Mr. CLINGER].

Mr. CLINGER. Mr. Speaker, I join with the minority leader in rising in strong opposition to this rule. It is more than a little disappointing that the very first bill to be brought to the floor from the Government Operations Committee during the 103d Congress, the very first bill that I will be managing as the ranking Republican of the committee, was never voted on by the committee, never debated by the committee, never subjected to normal and appropriate committee procedures.

Mr. Speaker, that is not the way to do business and I am not going to begin my tenure as the committee's ranking member by supporting such a travesty.

Earlier this month, I testified with others before the Rules Committee expressing my very deep concerns with this distortion of the committee process. Although the Government Operations Committee conducted one legislative hearing this year on the general issue of enhanced rescission authority, no regular markup was held and no opportunity was given to Members on either side of the aisle to offer amendments to the measure under consideration, although several of the minority members had an interest in offering amendments.

So what we have, Mr. Speaker, is a gag. It is not going to permit amendments to be brought forward, and given the procedure and the fact there has been a lot of criticism of the vehicle we are going to vote on, and the Wall Street Journal article has been alluded to, let me put in just one other quote:

"Today, the House will likely debate something called "expedited rescission." It is to the line item veto what chicory flavored water is to Colombian coffee. It may look the same but one taste tells the tale."

So given the fact that we are getting a watered-down weakened version of a true line-item veto approach, we need to have an open rule to allow this measure to be improved.

It is too easy for the majority party, with a Democrat in the White House, to abuse the House rules and minority rights by bypassing the normal committee procedures and then allowing but very few amendments to be considered on the floor, and those amendments in a way that stacks the deck so that the majority version will pass basically unencumbered with any amendments offered by the minority.

This practice effectively cuts off any opportunity for Members from either side of the aisle to participate in the legislative process. It should be the interest of all House Members that legislation like this be fully considered by the appropriate committees before it reaches consideration on the House floor.

Because it was not, and because we have not been given the opportunity to fully offer amendments, I urge the rejection of this rule.

Mr. DERRICK. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to take this opportunity to point out, since the Wall Street Journal editorial has been referred to several times, that the bill this editorial is about was abandoned last year. I would suggest to those who wrote it that they ought to keep up with us.

Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from Arizona [Mr. COPPERSMITH].

Mr. COPPERSMITH. Mr. Speaker, I thank the gentleman from South Carolina for yielding this time to me.

I urge all Members, both Democrats and Republicans, to support this rule.

If you truly want a line-item veto, this is the vote. This rule allows us to debate and vote on the two major line-item veto proposals, the Castle-Solomon one-third plus one, as well as the Spratt-Stenholm 50 percent plus one.

Do not be fooled by the rhetoric today. This vote will show who really wants a line-item veto and who just wants a line-item veto issue.

If you believe in the one-third plus one approach, as I do, this rule is our chance. If this rule is rejected, we will have lost the chance to enact the line-item veto.

The National Taxpayers Union is not fooled, and that is why the NTU has made this vote on the rule a key vote, showing who is a friend of the taxpayer and who is just not serious.

You have to pass the rule to decide whether to order coffee or chicory.

Finally, let me make a special plea to my freshmen Republican colleagues by quoting some of their own words. On April 1 in the well of this House, my colleague from Ramsey, MN, said:

"And it is the Democrats, not the Republicans, who are keeping the President from getting the line-item veto he wants."

Well, please do not allow the Republican leadership to stop the President from getting the line-item veto.

My distinguished friend from Shaker Heights, OH, said:

"Mr. Speaker, I am very disappointed with my colleagues. I hope that maybe they will come around and realize that it is not the Democrat leadership that they belong to. They belong to the people of the United States of America who elected them, believing that maybe reform would happen with their help."

Well, the issue is simple. If you want the line-item veto, you must vote "yes" on the rule.

Mr. SOLOMON. Mr. Speaker, I yield 3 minutes to the gentleman from Florida [Mr. GOSS], a member of the Committee on Rules.

Mr. GOSS. Mr. Speaker, I thank the distinguished ranking member, the gentleman from New York, for yielding me this time.

Today, some Democrat colleagues are going to tell the world that they have changed their minds and they are now ready to pass a line-item veto—something they have fought vehemently for years. Wrong. This bill before us today is not a true line-item veto nor does it even come close. What we have before us today is something called expedited rescission, not enhanced, not expanded, but expedited. It does not put the brakes on runaway spending—it does not add much to accountability. It is speeded up status quo, dressed up to pretend it is a line-item veto.

Imagine a 100-foot high building on fire with a man on the roof crying for help. The Democrat bill would be a flyover above this 100-foot highrise with words coming out of the helicopter saying, "Don't worry—we'll save you with our certified rescue package." The problem is, the rescue package they offer is a 30-foot-long rope and will leave that man hanging 70 feet off the ground while the building burns around him. That 30-foot rope is a far cry from what is needed to save our burning economy.

If the Democrat leadership were really serious about a true line-item veto—like the legislative line-item veto offered by Mr. CASTLE and Mr. SOLOMON—they would have attached it to the debt limit extension that was rammed through this House in the wee hours just before the Easter recess, as you will recall. That debt limit bill has already become law—and with it the line-item veto could have already been law, too. But as they have been doing a lot lately, the Democrat leadership in the Rules Committee said "no," not just to the minority, but to their own Democrat freshmen as well, who saw the debt limit bill as the surest way to ensure real budget process reform, and they refused their amendment then. But that is past history.

Here we are today with yet another restrictive rule—in fact the 10th out of 10 so far this Congress—debating the merits of that 30-foot rope. As a former mayor and county chairman responsible for balancing budgets I can say to this bill: "I know the line-item veto; I've worked with a line-item veto—and you're no line-item veto!"

Under this rule we have one amendment offered by the freshmen Republicans and Mr. SOLOMON to add some teeth to this measure and I urge my colleagues to support it. But what happened to the proposal by the Democrat freshmen? And the proposals to make

budget reform permanent instead of a 2-year experiment? And the one offered by our minority leader designed to stop special interest tax breaks? All these were effectively shut out by the Democrat majority on the Rules Committee—the same majority that will have the power under this bill to simply waive the rules and make its provisions useless, as has happened before.

If we go through the motions here today and adopt this expedited rescission bill, I expect the status quo Democrat majority to declare the issue of the line-item veto resolved. In fact, I read in this week's CQ that the primary reason this issue is being brought up at all is because the Democrats want to get it off the table and put it under the rug, it seems. But the debt will continue to go up and the waste will continue—and we may have lost our chance to turn things around.

Please, do not be fooled. This is not line-item veto—this is not son of line-item veto—this is not even a distant cousin of line-item veto. Do not accept this stand-in for reform. Stand up and fight for the real thing. Vote “no” on this rule.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 3 minutes to the gentleman from New Mexico [Mr. RICHARDSON].

Mr. RICHARDSON. Mr. Speaker, I rise in strong support of the rule. Why is this important? First, Mr. Speaker, the President of the United States should be given the ability to cut out pork and what is questionable in the budget. Number 2, the American people want the line item veto. We have tried Gramm-Rudman, we have tried the constitutional amendments to balance the budget, we have tried budget summits, and nothing has worked.

Mr. Speaker, the President has for the first time the first serious budget reduction package before us. He wants a line-item veto. He is serious about it.

Constitutionally, Mr. Speaker, this, in my judgment, is sound. The legislative branch is protected. It is a 2-year experiment.

Second, the House, the Senate, the Congress, can override the rescission package. The ability for the Congress to promote a new rescission package is there.

Mr. Speaker, the most important reason why we should support this rule, and a lot of Members have different views on line item veto because of their concern for the legislative branch losing some of its power, is that we allow this debate to take place. If this rule is defeated, we cannot, and I repeat, we cannot, vote on one of the President's main initiatives as a President.

I served as the chair of the drafting committee of the platform. President Clinton as a candidate, as a Governor, has supported the line-item veto, and we are ready to look at it for 2 years. Maybe in 2 years, constitutionally, structurally, there will be questions. We can revisit it again.

But I say for the credibility of this body, of the Government, of the executive legislative relationship, Let's give the President this authority to cut out questionable spending. Most States have this authority. Most Governors do.

Mr. Speaker, I think this is going to result in fiscal discipline. It is going to result in a better relationship between the two branches, and I think we owe it to the fact that the American people want change, and they want us to vote for different approaches

to the deficit. The President proposed this in his package, an essential element of his package is this modified line-item veto, and I urge support of the rule.

As a nation, we face many difficult problems and, due to the Federal deficit, we are unable to respond as we should. Whether the issue is health care, education or job creation, we are hamstrung and simply lack the resources to act in a forceful and responsible manner. Stated plainly, we must cut the deficit in order to function as an effective Government.

We must make tough choices in order to cut spending and put our economic house in order. Unfortunately, we have proven, year in and year out, that we lack the discipline to make those choices and, therefore, I believe that we need to create structures that will give us the confidence and ability to cut when necessary. For that reason I support H.R. 1578, the Expedited Rescissions Act and, in the past, supported the Gramm-Rudman Deficit Reduction Act and the 1990 budget agreement.

The enhanced rescissions Act is simple, it gives the President a greater ability to pinpoint cuts he wants to make. The bill is crafted carefully and fully protects the jurisdiction of the legislative branch by providing for a simple majority override of the President's cuts. It then enables the Congress to draft an alternative rescission package. This plan is responsible and, at the same time, brings us much closer to sound fiscal management.

Mr. Speaker, I strongly support this bill but realize that others may not. Nonetheless, I strongly ask for their support on the rule. Poll after poll show that the American people want tougher fiscal controls and doubt that we have the ability to make the difficult economic choices. President Clinton has asked for enhanced rescission and I think that we must put the issue to a vote. I will vote for H.R. 1578 but understand that others will vote against it. What we must do today is give it a fair hearing. Only by passing the rule and debating the bill on the floor can that happen.

Mr. Speaker, I urge my colleagues to support the rule. I yield back the balance of my time and thank my friend from South Carolina.

Mr. SOLOMON. Mr. Speaker, I yield 2 minutes to the gentleman from Alabama [Mr. EVERETT], a very distinguished freshman Member from Midland City.

Mr. EVERETT. Mr. Speaker, I thank the gentleman from New York [Mr. SOLOMON], my friend, for yielding this time to me. He represents New York by way of Echo, AL.

Mr. Speaker, I rise today again in opposition to this rule and again to call on Republican and Democratic freshmen to put aside partisanship and vote against this rule.

This is not a line-item veto. It is, as the Wall Street Journal commented in today's editorial, a line-item voodoo.

Many Members, new and old alike, promised the American people they would give the President a line-item veto. Candidate Bill Clinton campaigned for the line-item veto. Yet, surprise, after the election, Mr. Speaker, nobody seems really interested in a true line-item veto.

Mr. Speaker, what is being offered instead is a poor substitute that is designed to fool the public and do nothing to curb the appe-

tite of this Congress from spending. As the Wall Street Journal says, it is to a line-item veto what chicory flavored water is to Colombian coffee. It might look the same, but one taste tells the tale.

What the President would have to do is sign an entire spending package and attach a list of spending items he agreed with and then ask the Congress to eliminate them. Where is the line-item veto? He will not even be allowed to reduce an existing program below the previous budget. Where is the line-item veto? Mr. Speaker, where is the beef?

The people in my district elected as their Representative someone who had never been involved in politics. They did that because they lost faith, unfortunately, in the Congress. They did that because they were angry at politicians telling them one thing and doing something else.

This rule represents that kind of thinking, my colleagues, and I would add that the American people will not be fooled by it.

Vote this rule down, and let us bring a true line-item veto to the floor.

I will tell my colleagues what time it is, Mr. Speaker. It is time to tell the American people the truth.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 1 minute to the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Speaker, this is not a vote today on a line-item veto. This is a vote today to expand the power of the Presidency.

The Constitution is clear. Congress spends, Congress cuts. The problems in America will not be solved by giving the President a red felt tip pen.

My colleagues, Congress is afraid of its shadow. Congress will not cut. Congress is afraid, and, if we take the power and give it to the President, where does that power come from, if not from the people?

And let me say this: One man's trash is another man's treasure. I was not for expanding the power of the Presidency under a Republican administration, and I am not going to be a hypocrite. I am not for taking power from the people, investing it in the White House in a Democrat administration.

Mr. Speaker, the President is not going to solve our budget dilemma. It should be Congress, and I do not want to see Congress wimp out and sell the Constitution out to do it.

I appreciate having been yielded this time, Mr. Speaker.

Mr. SOLOMON. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. Mr. Speaker, I want to talk about two things. First of all, Mr. Speaker, I want to talk about closed rules. The American people do not understand how this place works, so it is time for us to explain that.

I say to my colleagues, "When you have a closed rule, you cannot debate the issue fully, and the Democrat Rules Committee has continually this session of Congress sent closed rules to the floor."

We are not going to be able to vote today on a line item veto because of the way this rule is structured. We are going to do it on their terms. They are trying to ram through everything President Clinton wants without full debate and disclosure.

Mr. Speaker, of all the rules we have had on the House floor, none have been open. In the past, 82 percent of the rules have been open. During this session, zippo, none, and that is why we have Lady Liberty gagged and hope the American people understand that.

In addition to that, Mr. Speaker, we have had 10 rules this session, and, out of the 10 rules, all have been closed, 100 percent, and that means that all the people that we represent, 600,000 people apiece, do not have a voice in this Congress because the Committee on Rules continues to gag them and will not allow them to be heard.

Finally, Mr. Speaker, the Speaker of this body, the gentleman from Washington [Mr. FOLEY], said he expects open rules within a matter of a very few days on major legislation. If a line-item veto is not major legislation, then what is it? And he said this on Monday, and they are sending a closed rule down here.

The fact of the matter is the people are not getting the straight story from the Democrat Party. They want to ram through \$402 billion in new taxes, another \$145 or \$150 billion for Hillary Rodham Clinton's health care program, and they are calling that democracy. Baloney. It is just plain baloney.

What we want is open rules. We want a straight up or down vote on a real line-item veto, not this enhanced rescission.

My colleagues know what it is. It is baloney, and the American people ought to know it is baloney. We want a vote on a straight line-item veto, and I hope the Committee on Rules one day will be fair.

Mr. DERRICK. Mr. Speaker, for the purposes of debate only, I yield 1 minute to the gentleman from Washington [Mr. INSLEE].

Mr. INSLEE. Mr. Speaker, I rise in favor of this rule and urge my colleagues to support it. I do this for two reasons. I have a perspective that is perhaps unique in this debate. I am one of the Democratic freshmen who supported an amendment that will not be considered under this rule. But for two reasons, I believe it is imperative that we pass this rule.

The first is that it should be very clear that killing this rule kills line-item veto in any shape or form in this year. You can shape it, you can shade it, you can color it, but a "no" vote is a vote to kill any shape of the line-item veto this year.

Those who believe that it is more important for the future of this country to make some political point about rules than to adopt a tool that can cut our deficit do not share my belief that the fundamental and No. 1 problem in our country is that deficit.

This bill will not give the Executive untoward power. It will simply allow the President to shine a spotlight on a spending proposal.

Mr. Speaker, I further believe in one principle that is engraved in this rostrum, and that principle is union. There are those who do not share my belief in the wisdom of this bill at all. To them I say that I urge them to vote in favor of this rule for principles of union. We must at times subjugate our personal beliefs and our personal wishes to union.

Mr. Speaker, I urge the Members to vote in favor of this rule.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 3 minutes to the gentleman from Oklahoma [Mr. SYNAR].

Mr. SYNAR. Mr. Speaker, the proposition before us today is very simple. Do we want to act like Members of Congress and continue to exercise the constitutional authority granted to us by our Founding Fathers, or do we want to turn our backs on responsibility and support an ill-conceived public relations gimmick. Why do I say this? H.R. 1578 is another in a long line of budget gimmicks that won't work, is not needed, is off questionable constitutional value, is inherently flawed, and is just plain irresponsible.

H.R. 1578 will not work. The bill is designed to decrease spending by making Congress vote up or down on the individual programs in appropriations bills which the President has singled out for rescission. Many fear that this will actually increase deficit spending because it gives Congress an incentive to present larger budgets to the White House in order to guard against Presidential rescission power.

In addition the GAO has flatly stated that "rescissions cannot be expected to be a major tool for reducing the deficit." The GAO reasons that rescissions have little deficit cutting impact because they are limited to the discretionary portion of the budget and do not touch the 61 percent of the budget comprised of mandatory spending—interest on the national debt, entitlements—including escalating health expenditures. Since 1974 the total enacted rescissions—\$69.2 billion—comprise just 3 percent of the cumulative deficits incurred during that period.

H.R. 1578 is a remedy in search of a problem. It's not needed because the current rescission process works to reduce deficit spending. From 1974 to the present, Presidents have proposed \$69.2 billion in rescissions and Congress has responded by approving \$21.3 billion of the requested rescissions and initiating \$65.1 billion of its own cuts for a total of \$86.5 billion in rescissions. In short, since 1974 Congress has enacted almost \$20 billion more in rescissions than Presidents have requested.

H.R. 1578 is also not needed because there already exists within the Impoundment Control Act a special discharge procedure which permits 20 percent of the Members of either House to force a floor vote on any Presidential rescission proposal. This provision should be sufficient to ensure that any proposal having adequate congressional support to suggest the possibility of approval could be brought up for debate and a prompt up-or-down vote. If the proposal cannot even get 20 percent support then it is unlikely that it would ever be approved.

H.R. 1578 is of questionable constitutional value. First, the bill amends the rules of the House by statute. This contravenes article 1, section 5 of the Constitution determines that congressional Chamber determine the rules of its own proceedings. The current proposal essentially amends the rules of both the House and the Senate by statute; that is, the Senate and the President determine the rules of the House and the House and the President determine the rules of the Senate.

Second, the bill could violate the principle of bicameralism. The bill makes no provisions for a conference should the House pass its Appropriations Committee alternative, and the Senate pass either the President's proposed rescissions or its own Appropriations Committee alternative or visa versa.

If the conference arises from current House and Senate rules—which is not clear from the bill—then what happens if only one Chamber passes the conference report or if neither Chamber chooses to act on the conference report? Technically both Chambers would be in compliance with H.R. 1578 but there would be no final action on any rescissions package. None of these questions are answered by the bill and all of them could lead to bicameralism problems.

It skews the balance of power between the Congress and the President. The proposal advances Presidential spending initiatives at the expense of legislative spending initiatives. Under the bill's procedures the President could rescind 100 percent of the appropriations for the Legal Services Corporation or 100 percent of the appropriations for cruise missiles.

Granted the House and Senate could offer an alternative rescissions package but the alternative must, first be within the same appropriations act as the rescissions the President proposed and second the amount of budget authority rescinded must be equal to, or greater than the rescinded budget authority proposed by the President. Also any proposed congressional alternative package could be vetoed by the President in which case Congress would have to overcome the veto by a two-thirds majority vote.

While either Chamber could restore the program targeted for rescission by a simple majority, the proposal forces Congress to adopt or reject each of the President's proposed rescissions. This gives the President enormous new power to set spending priorities. The President gets an expedited procedure and the Congress gets no more than an up-or-down vote.

The President would also have new power to set the legislative agenda through the use of the rescissions process. The bill would make all 13 yearly appropriations bills, plus any other appropriations bills—for example, emergency supplemental bills—subject to the rescission procedure. This would give the President up to 20 bills per year to exercise his rescissions powers and impact the legislative agenda.

The measure also gives the President added new leverage over individual Members. The President could negotiate a rescission, or a lack of a rescission, on an appropriation of particular concern to a Member in exchange for the Member's action on other legislative business.

There is also a potential one House veto problem in the bill. As drafted the House can vote down both the President's rescission proposal and its own proposal and the Senate does not have to act. Should the House approve the President's plan, or its own plan, the Senate could exercise its own one Chamber veto by voting down both the President's plan and its own plan. In short the rescinded funds can be restored by the action of a single Chamber. This single House action raises serious constitutional concerns.

H.R. 1578 as drafted contains a procedural flaw. The bill requires that Congress act within 10 legislative days on the President's rescission request. Without action, no spending occurs. Should Congress adjourn at the end of the current session, before the President sends his rescission message to Congress, no spending could occur until Congress reconvened in January 1994 and acted on the

rescission legislation. In effect spending on the President's rescinded programs could be halted for 3 months due to this flaw in the bill.

H.R. 1578 is just plain irresponsible legislation. It is a gimmick that gives the President the power to do what should be Congress' responsibility under the Constitution. Ironically, the bill, which its proponents claim is a vote for fiscal responsibility, doesn't even require a recorded vote during the consideration of the rescissions packages. Why would Congress pass a bill that gives a measure of their spending power to the President? So Members don't have to make the tough choices the Constitution and our constituents expect us to make.

Mr. Speaker, I implore my colleagues to remember their oath of office, their constitutional obligations, but most of all remember why they came here—to make tough decisions and to make a difference. This legislation must fail because we must legislate for the next generation, not the next election.

Mr. SOLOMON. Mr. Speaker, I yield 2 minutes to another freshman Republican, the gentleman from Oklahoma [Mr. ISTOOK].

Mr. ISTOOK. Mr. Speaker, I am amazed to hear some Members actually stand up and call this particular piece of legislation a line-item veto.

One of the favorite stories that Abraham Lincoln told went something like this: How many legs does a dog have if you call his tail a leg?

The answer is, Four, because calling a tail a leg doesn't make it so.

I do not care how many times you call this particular piece of legislation a line-item veto, it is not, and it is nowhere near it.

I was amazed to hear one of my freshmen colleagues on the other side of the aisle say that this is our only chance this year to vote for a line-item veto. Oh, really? Says who? Who made that decision that nothing else can come to the floor of this House for a line-item veto? Let us name names. If somebody made that decision to thwart the will of 80 percent of the American people who want a line-item veto, let him stand up and be counted or keep on hiding behind closed doors and behind closed rules. This is not a line-item veto.

One of my favorite movies while growing up was Tony Curtis starring in "The Great Impostor." That was Albert DeSalvo. Sometimes he was a priest, sometimes he was a surgeon. Who knows what he might be next? One thing he never did in the movie, though, he never got himself elected to Congress. Sometimes I wonder, is "The Great Impostor" hiding among us here when you can take something like this and label it a line-item veto? No, it is "line-item voodoo."

You cannot cut any pork unless Congress or most of Congress by a majority vote says, "We want to cut it." Where is the veto in that? Where is the two-thirds margin that the people of America expect to override a Presidential veto.

We need to have a real line-item veto and an open rule that also attacks the problems with the tax bills that bring pork into them, such as was offered under an amendment that was not permitted by this rule.

Mr. Speaker, I ask the Members to oppose the rule, and let us keep up the fight for a true line-item veto, not "line-item voodoo."

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 1 minute to the gentleman from Utah [Mr. ORTON].

Mr. ORTON. Mr. Speaker, I rise actually in reluctant support of this rule. I am in strong support of the enhanced rescission package. I favor it. In fact, I am a cosponsor of it.

I believe, however, that our rule should allow more debate and discussion on amendments. In fact, I have two amendments that I wanted to propose myself. One of them expands this authority to tax expenditures; the other expands the contract authority. I think they should be made in order. I think we should have the opportunity to debate and vote on those issues, and in fact, if I were convinced that by defeating this rule we would be able to come back with a better rule to present these items, I would oppose this rule and vote against it.

I am, however, convinced that if we defeat this rule, we will defeat any opportunity for enhanced rescission. We must have enhanced rescission. I believe it so strongly that I am willing to wait to present my amendments until 2 years from now when we will have an opportunity to make permanent the enhanced rescission provision.

So Mr. Speaker, I encourage all my colleagues to vote in favor of the rule and in favor of the bill.

Mr. SOLOMON. Mr. Speaker, I yield myself 30 seconds just to tell the gentleman who just spoke that there is no question that if the rule is defeated, the Democrat leadership is going to bring a bill back on this floor, because there are veteran Democrats who were hung out to dry when they voted for the stimulus package and it went down, and there are freshmen Democrats who were hung out to dry because they had to vote for raising the debt limit. They are demanding a vote, and there will be another chance out here for that. That is why we should defeat this rule.

Mr. Speaker, I yield 1 minute to the gentleman from Texas [Mr. DELAY].

Mr. DELAY. Mr. Speaker, the gentleman from South Carolina [Mr. DERRICK] said that this was the fairest rule that they could bring to the floor. They cannot even recognize that the fairest rule that could come to the floor is an open rule. That is the fairest rule that they could bring to the floor.

Let me tell the Members this, too, about unfairness: coopting the freshman Democrats. Mr. Speaker, we have had freshman Democrat after freshman Democrat talk about this rule as being the vote on line-item veto.

Did you know, I say to the freshmen, that a one-third vote could kill any rescission? That is a one-third vote. This is how it works, and obviously your leaders did not tell you about that.

Mr. Speaker, the President has to sign the bill sent him. Then he sends us a list of rescissions he wants to make. In 20 days we have to pass a resolution approving the rescissions.

Mr. Speaker, do you know what they can do, especially in this Committee on Rules? They can take this bill and put it on the Suspension Calendar, and one-third of the House can stop the approval of the rescission. That is not the line-item veto. That is not even

majority line-item veto. That is a sham. Do not be co-opted. Vote against this rule.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 3 minutes to the distinguished gentleman from Texas [Mr. STENHOLM].

Mr. STENHOLM. Mr. Speaker, there has been a lot of rhetoric today about this rule, most of which has not been actual. I want to ask the gentleman from New York [Mr. SOLOMON] a simple question: Is H.R. 24 that the gentleman has authored a sham, baloney line-item veto bill, or is it not a true line-item veto as the gentleman from New York believes it?

Mr. SOLOMON. Mr. Speaker, if the gentleman will yield, H.R. 24 is in the form of the Castle-Solomon amendment, which is a true legislative line-item veto.

Mr. STENHOLM. Mr. Speaker, reclaiming my time, does not this rule make under consideration under 1 hour's debate the amendment that the gentleman from New York [Mr. SOLOMON] wishes to offer?

Mr. SOLOMON. Mr. Speaker, if the gentleman will yield further, it does. But it does not allow us to change it. It does not allow us to offer it to Spratt-Stenholm, and it does not allow the targeted tax provisions by Mr. MICHEL, which every tax organization in the country wants us to offer on this floor today.

Mr. STENHOLM. Mr. Speaker, reclaiming my time, the gentleman from New York [Mr. SOLOMON] has answered my question.

Mr. Speaker, I rise today in support of the rule to H.R. 1578, the Expedited Rescissions Act, which has also been referred to as modified line-item veto legislation. I stand in support of this rule for two reasons: First, because it is a fair rule that allows the House to consider major alternatives on this issue; and, second, because the taxpayers of this country are fed up with rhetoric and political games. They want us to debate and vote on line-item veto legislation so that we Members go on record on this issue. Much more importantly, they want us to pass legislation into law which encourages the elimination of wasteful spending.

This bill that we are discussing today, H.R. 1578, began in the 103d Congress with H.R. 1013, legislation which I had originally introduced with a bipartisan group of 80 of my colleagues. The text of H.R. 1578 made in order by the rule maintains the basic principle of the bill I introduced earlier this year—the requirement that Congress must vote up or down on Presidential rescission messages under an expedited procedure.

This new text reflects improvements made after extensive consultation and review to address concerns raised by Members on both sides of the aisle. In my opinion, any fiscal conservative who claims that this bill is weaker than H.R. 1013 or last year's H.R. 2164 either has not taken the time to study the changes or else has other reasons for intentionally misinterpreting the bill. I defy anyone who marches under the banner of fiscal responsibility to tell me how eliminating the limitation on the amount of authorized funds makes the bill weaker. Or please explain to me how removing the opportunity to strike rescissions from the package is bad. Or perhaps you could provide insight on the damage done by put-

ting in place the roadmap for a second rescission package if the President's proposal is defeated.

We can argue about the merits—both substantive and political—of this approach as opposed to full line-item veto. But for those people who have enthusiastically supported enhanced rescission in the past and now badmouth this version which is even stronger, I have waning patience and waxing frustration.

In addition to the modified line-item veto approach embodied in H.R. 1578, attention has focused on two other line-item veto proposals in the 103d Congress: The Duncan and Solomon bills, H.R. 159 and H.R. 24, that would effectively require a two-thirds vote to block Presidential rescissions; and the Michel bill, H.R. 493, which would allow the President to rescind tax items as well as appropriations items with a two-thirds vote necessary to override the President. Under the rule, the House will have the opportunity to debate and vote on both of these approaches.

Although I personally do not support the Castle-Solomon line-item veto amendment, I know that many Members do, and therefore I believe very strongly that the House should have the opportunity to debate and vote on this amendment, as well as the Michel tax amendment. I have consistently and adamantly advocated this position before the Rules Committee and with the leadership, and I am pleased with the Rules Committee for having granted a rule which will allow honest votes on the leading alternatives on this subject. I understand it has been suggested that in private I have argued in favor of a closed rule. That quite simply is not true and, frankly, I take offense with the suggestion that behind closed doors I might act contrary to my public position, which always has been to argue for up-or-down votes on major, substantive issues.

The issue of line-item veto authority has been debated for many, many years. The issues of balance of power, constitutionality, procedures for rescissions, et cetera have long been in the marketplace of ideas and debate. On the other hand, only very recently have the ideas of tax expenditures and contract authority been added to this debate. I believe that these two issues, tax expenditures and contract authority, very rightfully belong in the rescission debate. I am very eager to explore these concepts personally. I want to hear others with greater constitutional and institutional expertise than I debate the nuances of including tax expenditures and contract authority in rescission authority. I am considering introducing legislation embodying these two concepts in an effort to help further this discussion. I think it is highly likely that 2 years from now when we consider renewing the contract on this legislation, I will be prepared to vote for revisions of this sort. At this point, however, I do not believe the debate has matured to the point where we should be attaching these unexplored ideas to legislation which is likely to be signed into law.

During the last Congress, there were several unsuccessful efforts on procedural votes to bring the line-item veto to a vote. I supported these efforts on a few occasions, as did many of my friends on the other side of the aisle. Today we have the very opportunity that we were seeking through our procedural gymnastics, that being to vote up or down on the substance of the line-item veto. As one who seeks to avoid a cynical interpretation of events, I can only

be baffled about why some Members would fight procedurally so hard for the chance to vote at one time, and then stomp into the dirt that very opportunity when it is handed to them today.

Make no mistake: If this rule is defeated, it is very unlikely that there will be another opportunity to vote on any version of line-item veto during this Congress.

More than two dozen business, taxpayer, and good government organizations are supporting H.R. 1578. I commend these groups for their proactive involvement and I will be submitting their letters of endorsement for the RECORD. The National Taxpayers Union has specifically addressed the issue of supporting the rule, which it encourages because the rule provides the opportunity for a clean vote on the issue of line-item veto. NTU points out that the only effective line-item veto will be the one that is enacted into law. Like NTU, which simply states, "A vote against the rule is a vote against consideration of the line-item veto," I do not understand how it can be argued that defeating this rule and preventing any line-item veto legislation from coming to the floor would be in the interest of American taxpayers. The vote on the rule comes down to this simple point.

I urge my colleagues on both sides of the aisle to give the American people a reason to feel good about their Government. I urge you to vote "yes" on the rule and when the rule is adopted, to support final passage of H.R. 1578.

For the RECORD, I include a letter from the National Taxpayers Union.

NATIONAL TAXPAYERS UNION,
Washington, DC, April 21, 1993.

Attn: Administrative Assistant/Legislative Director.

DEAR REPRESENTATIVE: Today's line-item veto votes will very likely be the most important votes on this issue during this Congress. The National Taxpayers Union (NTU) has long supported legislation that would enable the President to isolate and eliminate wasteful spending. For that reason, we want to be sure our position is clear to every Member of the House.

Our ultimate goal is passage of a line-item veto constitutional amendment. We support enactment of a statute as an interim step toward a full line-item veto amendment.

1. NTU urges you to support the rule, H. Res. 149, to allow a vote on both the "Legislative Line-Item Veto" and H.R. 1578, the "Modified Line-Item Veto." A vote against the rule is a vote against consideration of the line-item veto.

2. NTU urges you to support a motion to move the previous question. A vote to defeat the previous question is a vote against the line-item veto.

3. NTU urges you to vote against any motion to recommit. A vote to recommit is a vote to "kill" progress toward a line-item veto.

4. NTU urges you to vote for the "Solomon-Castle substitute," despite the fact that this measure stands little chance of becoming law in this Congress. This alternative is substantially the same as a full line-item veto, which has long been our preference.

5. If the "Solomon-Castle" substitute prevails, NTU urges you to vote for it on final passage.

6. If "Solomon-Castle" fails, NTU strongly urges you to vote for H.R. 1578, the "Spratt-Stenholm Modified Line-Item Veto." This bipartisan measure would greatly improve the current process, continue progress toward a full line-item veto and have a good chance of becoming law. A vote against H.R. 1578 is a vote against efforts to reduce wasteful pork-barrel spending.

7. Votes on both the Solomon-Castle substitute and final passage of H.R. 1578, with or without amendment, will be included in our annual rating of Congress. Votes on procedure may also be included in the rating if direct votes on the issue are unavailable. NTU will make every effort to publicize all votes on this issue.

Thank you for your consideration of our position. Please call me if you have any questions.

Sincerely,

AL CORS, Jr.,
Director, Government Relations.

Mr. DERRICK. Mr. Speaker, I yield 1 minute to the gentleman from South Carolina [Mr. SPRATT].

Mr. SPRATT. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I am the imposter that, along with the gentleman from Texas [Mr. STENHOLM], has brought this bill to the floor. I support it. It is a good bill. It is not a sham.

Mr. Speaker, the President of the United States has requested us to give him this power.

Mr. Speaker, the last time we voted on a piece of legislation very similar to this was last year. October 3, 1992, essentially the same bill that the gentleman from Texas [Mr. STENHOLM], along with Mr. Carper, brought to the floor. At that time the gentleman from Indiana [Mr. BURTON], the gentleman from Georgia [Mr. GINGRICH], the gentleman from Illinois [Mr. MICHEL], the gentleman from Florida [Mr. GOSS], the gentleman from Texas [Mr. DELAY], and the gentleman from New York [Mr. SOLOMON], most of the Republicans who have spoken against it, have called it preposterous, voted for this very bill.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I certainly would never refer to my good friend, the gentleman from South Carolina [Mr. SPRATT], or the gentleman from Texas [Mr. STENHOLM] as imposters. They both are very, very well respected Members of this House.

Mr. Speaker, I yield 1½ minutes to my good friend, the gentleman from Maryland [Mr. MFUME], a very well respected Member from the other side of the aisle.

Mr. MFUME. Mr. Speaker, I thank the distinguished gentleman for yielding.

Mr. Speaker, I rise today representing the position of the Congressional Black Caucus to argue that despite the disinformation that has been circulated on this floor, the Congressional Black Caucus remains in opposition to this bill.

Mr. Speaker, our position is one that has evolved out of a purity in principle. It is that purity in principle that divides us now as legislators on this matter, and it is important in this democratic process that we have the opportunity as we do today to debate it.

But let me just suggest that even the most naive student of constitutional history knows that the Constitution gives implied and stated powers, and that no legislator since the beginning of this Nation has come to the point that we are at today, and that is to give away, to cede unto the executive branch, those powers.

Whatever happened to the notion of constitutional balance of power? The people whose pictures hang on this wall, Jefferson, Washington, Clay, and others, recognized that. They embodied it in our Constitution. They gave us a sacred trust to maintain and keep that balance of power.

It is not so much about a line-item or rescission, it is about who the Executive will be tomorrow and next year and next decade and how that individual will use that particular power.

Mr. Speaker, I urge Members to be conscious about this and not buy into the rule or the notion that this sunsets.

Mr. Speaker, let me tell you something about the sun: it sets every day, but it also rises again, and this bill will be back before us if we pass it today, no matter what others say.

So few will remember what we say here today, but all will remember today what we do, and what we do is important. We will rue the day that we give away power like this.

Mr. Speaker, I urge Members to oppose this bill.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we have letters here from the United States Chamber of Commerce supporting the Castle-Solomon amendment. We have letters here from the Americans for Tax Reform really criticizing the National Taxpayers Union for riding the fence on this issue, and so am I. I often praise the National Taxpayers Union on this floor.

Mr. Speaker, it goes on and on and on. The Wall Street Journal, the Citizens for Sound Economy, and on and on and on.

Mr. Speaker, let me just say to the Democrats on that side of the aisle, I said it a few minutes ago, but there were not many on the floor, if you defeat this rule now you are going to have another chance within days, within days, to cast a vote on a true legislative line-item veto for which many Members campaigned last November and said they would come on this floor and vote. Because the Democratic leadership is not going to allow those that have been hung out there on the stimulus package and those that were hung out there on the debt ceiling, all of whom pledged they would not vote to raise that debt ceiling and would not vote for frivolous spending, they are going to have a chance to come out here next week and cast a vote on a true line-item veto. So do not let anyone hornswoogle you any differently. That is why you need to defeat this.

Mr. Speaker, if Members pass this rule and subsequently pass the bill of my food friend, the gentleman from South Carolina [Mr. SPRATT], and my good friend, the gentleman from Texas [Mr. STENHOLM], you simply are allowing the Committee on Rules at some time in the future to waive the rule and waive what you are passing here, which means you are doing absolutely nothing. You know that, and I know that, and you ought to vote no on this rule and do it now and let us have an opportunity to come out here in a free

and open process, where all 435 Members of this body can cast votes and introduce amendments that really mean something to this piece of legislation.

Mr. Speaker, I urge Members to vote no on this rule.

Mr. DERRICK. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, my colleagues who serve on the Committee on Rules with me have had a number of opportunities to have an open rule but have turned each opportunity down. They know as well as I do, as much as they whine, that this rule is a fair rule. It gives us an opportunity to vote on the Republican substitute, which they consider to be a line item veto. It gives us an opportunity to vote on the Spratt-Stenholm bill, which we consider to be a line-item veto.

They can put anything they want in their motion to recommit which is germane.

The Members who had the honor to serve in the previous Congress will recall that last year we passed a bill very much like the bill before us today. I managed that bill. I voted for it, and so did 311 others who joined me. Most spoke against that bill today. It was a good bill which would have changed things around here for the better.

It would have created accountability by giving a President the power he needs to block individual items in spending bills. Forty-three Governors have similar power, including the Governor of my State of South Carolina. In most States it apparently works fairly well.

Unfortunately, last year's bill died in the other body at the end of the session. In a way, I am pleased, because this bill is a better bill, and it is our responsibility to take it up and pass it today.

We have a new President who has asked for this modified line-item veto. His administration has worked long and hard with the Committee on Rules, the Committee on Government Operations, the House leadership, the gentleman from Texas [Mr. STENHOLM], and others to develop it.

Our new President has signaled an end to the business as usual of the past. He has confronted the deficit and challenged Congress and the American people to change.

Mr. Speaker, we have already voted for change this year in this House. We passed the President's budget. We passed the jobs bill, which died in a Republican filibuster in the Senate. And we should pass this key aspect of his program, too.

The line-item veto is not the only solution to our problems, but it is in part a solution. We owe it to the American people to give this a try. If it works, we can extend it. If it does not, we can try something else.

Our new President urged us, just yesterday, to pass this bill. I believe we owe it to him, and we owe it to the millions who voted for change, to give it a try.

This is a good rule. Many Members' concerns about the bill already have been addressed and incorporated into the base text.

The rule makes in order a Republican substitute, and provides an opportunity for the minority leader to offer his amendment on tax expenditures. And it does not restrict the motion to recommit.

I urge all Members to support the rule and to support the bill.

Remember, if we vote against this rule, we are voting against considering a line item veto. We are choking off everyone in this body, if we vote against this rule.

Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mr. RICHARDSON). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. SOLOMON. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 212, nays 208, not voting 12, as follows:

[Roll No. 144]

YEAS—212

Abercrombie	Danner	Hinchey
Ackerman	Darden	Hoagland
Andrews (ME)	de la Garza	Hochbrueckner
Andrews (NJ)	Deal	Holden
Andrews (TX)	DeFazio	Hoyer
Applegate	DeLauro	Hughes
Bacchus (FL)	Derrick	Hutto
Baesler	Deutsch	Inslee
Barcia	Dicks	Jacobs
Barlow	Dingell	Jefferson
Barrett (WI)	Dooley	Johnson (GA)
Beilenson	Durbin	Johnson (SD)
Berman	Edwards (TX)	Johnson, E. B.
Bevill	Engel	Johnston
Bilbray	English (AZ)	Kanjorski
Bishop	English (OK)	Kaptur
Bonior	Eshoo	Kennedy
Borski	Fazio	Kennelly
Boucher	Fields (LA)	Kildee
Brewster	Fingerhut	Klecza
Brooks	Flake	Klein
Browder	Foley	Klink
Brown (CA)	Ford (MI)	Kopetski
Brown (OH)	Ford (TN)	Kreidler
Bryant	Frank (MA)	LaFalce
Byrne	Frost	Lambert
Canady	Furse	Lancaster
Cantwell	Gejdenson	Lantos
Cardin	Gephardt	LaRocco
Clayton	Geren	Laughlin
Clement	Gibbons	Lehman
Clyburn	Glickman	Levin
Coleman	Gordon	Lewis (GA)
Collins (GA)	Green	Lipinski
Condit	Gutierrez	Lloyd
Conyers	Hall (OH)	Long
Cooper	Hall (TX)	Lowey
Coppersmith	Hamilton	Maloney
Costello	Harman	Mann
Coyne	Hayes	Manton
Cramer	Hefner	Margolies-Mezvinsky

Markey	Pelosi	Slaughter
Matsui	Penny	Spratt
Mazzoli	Peterson (FL)	Stark
McCloskey	Peterson (MN)	Stenholm
McCurdy	Pickett	Strickland
McDermott	Pickle	Studds
McHale	Pomeroy	Stupak
McNulty	Poshard	Swett
Meehan	Price (NC)	Swift
Miller (CA)	Rahall	Tanner
Mineta	Reed	Tauzin
Minge	Reynolds	Taylor (MS)
Mink	Richardson	Thornton
Moakley	Roemer	Thurman
Mollohan	Rose	Torricelli
Montgomery	Rostenkowski	Trafigant
Moran	Rowland	Unsoeld
Murphy	Rush	Valentine
Nadler	Sabo	Vento
Natcher	Sangmeister	Visclosky
Neal (MA)	Sarpalius	Volkmer
Neal (NC)	Sawyer	Waxman
Oberstar	Schumer	Whitten
Obey	Scott	Williams
Olver	Sharp	Wilson
Orton	Shepherd	Wise
Pallone	Sisisky	Woolsey
Parker	Skaggs	Wyden
Pastor	Skelton	Wynn
Payne (VA)	Slattery	

NAYS—208

Allard	Combest	Goodlatte
Archer	Crane	Goodling
Armey	Crapo	Goss
Bachus (AL)	Cunningham	Grams
Baker (CA)	DeLay	Grandy
Baker (LA)	Dellums	Greenwood
Ballenger	Diaz-Balart	Gunderson
Barrett (NE)	Dickey	Hamburg
Bartlett	Dixon	Hancock
Bateman	Doolittle	Hansen
Becerra	Dornan	Hastert
Bentley	Dreier	Hastings
Bereuter	Duncan	Hefley
Bilirakis	Dunn	Herger
Blackwell	Edwards (CA)	Hilliard
Bliley	Emerson	Hobson
Blute	Evans	Hoekstra
Boehlert	Everett	Horn
Boehner	Ewing	Houghton
Bonilla	Fawell	Huffington
Brown (FL)	Filner	Hutchinson
Bunning	Fish	Hyde
Burton	Foglietta	Inglis
Buyer	Fowler	Inhofe
Callahan	Franks (CT)	Istook
Camp	Franks (NJ)	Johnson (CT)
Carr	Gallegly	Johnson, Sam
Castle	Gallo	Kasich
Chapman	Gekas	Kim
Clay	Gilchrest	King
Clinger	Gillmor	Kingston
Coble	Gilman	Klug
Collins (IL)	Gingrich	Knollenberg
Collins (MI)	Gonzalez	Kolbe

Kyl	Oxley	Smith (NJ)
Lazio	Packard	Smith (OR)
Leach	Paxon	Smith (TX)
Levy	Payne (NJ)	Snowe
Lewis (CA)	Petri	Solomon
Lewis (FL)	Pombo	Spence
Lightfoot	Porter	Stearns
Linder	Pryce (OH)	Stokes
Livingston	Quinn	Stump
Machtley	Ramstad	Sundquist
Manzullo	Rangel	Synar
Martinez	Ravenel	Talent
McCandless	Regula	Taylor (NC)
McCollum	Ridge	Tejeda
McCrery	Roberts	Thomas (CA)
McDade	Rogers	Thomas (WY)
McHugh	Rohrabacher	Thompson
McInnis	Ros-Lehtinen	Torkildsen
McKeon	Roth	Towns
McKinney	Roukema	Upton
McMillan	Roybal-Allard	Velazquez
Meek	Royce	Vucanovich
Menendez	Sanders	Walker
Meyers	Santorum	Walsh
Mfume	Saxton	Waters
Mica	Schaefer	Watt
Michel	Schiff	Weldon
Miller (FL)	Schroeder	Wheat
Molinari	Sensenbrenner	Wolf
Moorhead	Serrano	Yates
Morella	Shaw	Young (AK)
Murtha	Shays	Young (FL)
Myers	Shuster	Zeliff
Nussle	Skeen	Zimmer
Ortiz	Smith (IA)	
Owens	Smith (MI)	

NOT VOTING—12

Barton	Henry	Schenk
Calvert	Hoke	Torres
Cox	Hunter	Tucker
Fields (TX)	Quillen	Washington

The Clerk announced the following pair:

On this vote:

Ms. Schenk for, with Mr. Washington against.

Mr. SARPALIUS, Mr. WHITTEN, Mrs. MINK, Mr. ABERCROMBIE, and Mr. BORSKI changed their vote from "nay" to "yea."

Mr. FAWELL changed his vote from "present" to "nay."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

[From the Congressional Record pages H2084-2104]

EXPEDITED RESCISSIONS ACT OF 1993

The SPEAKER pro tempore. Pursuant to House Resolution 149 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 1578.

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 1578) to amend the Congressional Budget and Impoundment Control Act of 1974 to provide for the expedited consideration of certain proposed rescissions of budget authority, with Mr. SWIFT in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

The gentleman from South Carolina [Mr. DERRICK] will be recognized for 30 minutes; the gentleman from New York [Mr. SOLOMON] will be recognized for 30 minutes; the gentleman from Michigan [Mr. CONYERS] will be recognized for 30 minutes; and the gentleman from Pennsylvania [Mr. CLINGER] will be recognized for 30 minutes.

The Chair recognizes the gentleman from South Carolina [Mr. DERRICK].

PARLIAMENTARY INQUIRY

Mr. SOLOMON. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. SOLOMON. Mr. Chairman, I would like to perhaps have a short colloquy with the floor managers of the bill in that since the Committee on Government Operations is recognized for 1 hour equally divided between the Democrat side and the Republican side, and the same would hold true for the Committee on Rules, is it the intention of the Chair to recognize all four utilizing their time at the same time? That is the usual custom.

The CHAIRMAN. The Chair will follow any recommended procedure; the Chair will follow any recommended order that is agreed upon by the four floor leaders.

Mr. SOLOMON. Mr. Chairman, I would just say to my good friend, the gentleman from South Carolina [Mr. DERRICK], that it is our suggestion that we be able to debate the 2 hours all at one time, rotating with the four managers as they see fit.

Mr. DERRICK. That is fine.

Mr. SOLOMON. Is that agreeable to the gentleman?

Mr. DERRICK. Yes.

Mr. SOLOMON. Then I assume it is agreed to, and that is the order we will proceed in, Mr. Chairman.

Mr. DERRICK. Let me make sure I understand. I was not exactly sure. What was the gentleman's proposal on the time?

Mr. SOLOMON. The proposal was, under the usual order of the House, on past bills of this nature that when we have two committees involved, that we rotate the time of the two committees, the Republicans and Democrats on each side, so that we would use up the time equally as we proceed. In that way both of the committees of jurisdiction could be involved in the entire debate.

Mr. DERRICK. Does the gentleman object to maybe doing the Rules time first and then recognizing—letting Government Operations go next? I mean 1 hour and 1 hour. Is there any objection?

We have a chairman who would prefer to do it that way. I really am ambivalent about it.

Mr. SOLOMON. With all due respect, there were many Members on this aisle where some of the Members have other obligations and they do not want to have to wait for the second hour. Out of fairness to those who do have obligations, if you rotated the time equally, we would be able to accommodate those Members.

Mr. DERRICK. If we rotate, then everyone has to stay here for the full 2 hours. That is the point. I thought maybe we could—

Mr. SOLOMON. Only the managers of the bill.

Mr. DERRICK. Well, I am concerned about that.

Mr. SOLOMON. Well, you and I usually take a beating, Mr. DERRICK, anyway; we are here all the time.

Mr. DERRICK. Would the gentleman object to doing it the other way? One of our chairmen has specifically requested it, and I would like to honor his request if we could.

The CHAIRMAN. The Chair will begin by recognizing the gentleman from South Carolina [Mr. DERRICK], in the hope that the conversation may continue while we proceed with the debate on the bill.

I recognize the gentleman from South Carolina.

Mr. DERRICK. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I am delighted today to bring to the floor H.R. 1578, the Expedited Rescissions Act of 1993.

On November 3 the American people voted for change. They elected a new President to bring them that change.

The President has laid out a far-reaching program, many parts of which have already been debated at great length on this floor. In the weeks and months ahead there will be more such debates. I believe, with the help and support of this Congress, President Clinton will succeed in changing this Nation for the better.

The legislation before us today is a key aspect of the President's program: a modified line-item veto.

As did his predecessors, this President has emphasized time and time again that he needs such a power. I believe the time is long overdue to give it to him.

The legislation before the House is actually very simple. After the President signs an appropriations act he may, within 3 days, send the House a special message proposing to rescind, or cancel, any line-items in the bill which he might oppose.

Within 2 days of receipt of the President's message, either the majority or minority leader would introduce the President's bill. If neither leader introduced it, then on the third day any Member could do so.

The bill would be referred to the Committee on Appropriations, which would have 7 legislative days to report it out.

The committee could not propose changes to the President's bill, but it could report an alternative bill if it chose. An alternative bill would have to rescind at least as much as the President's bill, and draw its rescissions from the same appropriations act as the President.

The President's package would have come to a vote in the House within 10 days of when it was introduced. The bill would not be

subject to amendment or to a demand for a division of the question. In other words, the House would have to vote, up or down, on the President's package as he submitted it.

If approved by a majority, the bill would go to the Senate which would consider it under similar, expedited procedures and constraints. If the legislation passed the Senate by majority vote, it would go to the President. Presumably the President would sign it into law since it would be his proposal. Appropriations would be canceled, spending would be cut, and the deficit would be reduced.

If the House rejected the President's bill and instead passed the alternative bill, that bill would go to the Senate. The Senate Appropriations Committee could report out the alternative bill with or without change, but for any alternative to be in order in the Senate, the Senate would first have to vote on and reject the President's bill. If both houses ultimately passed an alternative to the President, then that bill would go to the President. If he signed it, those appropriations would be canceled, spending would be cut, and the deficit reduced. Either way, the American taxpayer would be the big winner.

Mr. Chairman, the bill is a temporary, 2-year experiment. After the 2-year test, the Congress can review the process and decide whether to extend it with or without change.

One of the concerns many Members have about a true line-item veto, which would require a constitutional amendment, involves the dramatic shift of power it would make from the Congress to the executive branch.

The Framers of the Constitution could have given the President an item veto; they certainly knew how to do it. But they declined to do so. In fact, the President's current qualified veto was itself a compromise; some of Founding Fathers wanted to give the President no veto at all. The Constitution is a beautiful document, and I have never felt we should lightly tamper with it. Besides, amending the Constitution requires a two-thirds vote in each House of Congress and ratification by three-quarters of the State legislatures. That process could take years. I don't believe we can afford to wait years for this reform.

Moreover, Mr. Chairman, last fall I held extensive hearings in the Rules Subcommittee on the Legislative Process on the forerunner of the legislation before us today. We heard compelling testimony from several witnesses, including a distinguished State legislator from Wisconsin, who warned us it is possible for a chief executive to use a line-item veto not only to reduce spending, but also as a weapon to increase spending on his own pet programs. The option for a congressional alternative to the President's bill will mitigate this possibility.

H.R. 1578 will take Congress through two full appropriations cycles. Two full cycles will give us ample evidence to weigh in determining whether the modified line-item veto actually serves the people's interests and reduces spending, or not. If it works, and I believe it will, then we can extend it or make it permanent at that time.

Mr. Chairman, I strongly believe the bill is constitutional. The American Law Division of the Library of Congress has rendered an opinion to the effect that it is constitutional. But some have raised

questions, and as a precaution the bill includes provisions for expedited review in the courts.

Mr. Chairman, I have supported the legislative line-item veto for many years in an attempt to enhance accountability on both ends of Pennsylvania Avenue for our country's fiscal decisions. I am sure no Member considers the line-item veto a cure-all for our Nation's deficit problems. But I believe H.R. 1578 is a good bill and every Member ought to support it. The Clinton administration, which participated actively in the process which brought us to the floor today, believes it is a good bill.

Later the gentleman from Delaware [Mr. CASTLE] and the gentleman from New York [Mr. SOLOMON] may offer a substitute amendment to change the bill from one requiring the Congress to approve the President's rescission bill to one requiring the Congress to disapprove the President's rescissions. The Castle-Solomon amendment would convert the President's rescissions from mere proposals to reality. Under their approach the President's proposal would take effect permanently and appropriations would be canceled unless Congress re-enacted them within a specified time.

Since the President would probably veto any bill to disapprove his rescissions, the Castle-Solomon amendment would in effect require Congress to muster a two-thirds majority in both Houses to prevail.

I hope the Members will reject this unwise amendment. It would mark a tremendous shift of power from Congress to the Presidency. The amendment is based on the notion that Presidents institutionally want to spend less than Congresses do. I have no reason to draw such a conclusion. I know Presidents often want to spend money on different things than Congresses do, but not necessarily less.

Mr. Chairman, the President has said if we do not change, we will not recognize this country in 10 years. He has asked virtually every sector of our society to join him in making sacrifices, cutting unnecessary spending, reducing the deficit, and changing from business as usual. This Congress has already responded to the President's clarion call for change by passing his budget.

Mr. Chairman, the line-item veto is a key part of the President's legislative program. The President believes we must use every weapon at our disposal to win the battle against the Federal budget deficit, the special interest, and to defeat those who would resist change and preserve the status quo. The legislative line-item veto is just such a weapon. It will not cure our deficit problem, but it will help by enhancing accountability for spending decisions.

No longer would a President be able to sign an appropriations act including wasteful line-items and claim he was powerless to block them. No longer could Congress force upon the President the dilemma of vetoing an entire appropriations act and shutting down the Government, or signing the whole thing, pork and all. Accountability is what we need, and accountability is what this bill will provide. I urge all Members to support the legislation and oppose the Castle-Solomon amendment.

Mr. Chairman, I submit for the RECORD a letter from the President to the Speaker, Mr. FOLEY, urging our support for this legislation.

THE WHITE HOUSE,
Washington, April 27, 1993.

Hon. THOMAS S. FOLEY,
Speaker of the House of Representatives, Washington, DC.

DEAR MR. SPEAKER: I am writing in support of the substitute for H.R. 1578, the Expedited Rescissions Act, which has been made in order for House Floor consideration by the Rules Committee in H. Res. 149.

As you know, I support a line-item veto to reduce wasteful government spending. The bill about to be considered by the House would give the President modified line-item veto authority which I believe would go a long way toward achieving the purposes of a line-item veto.

The bill would enable the President to reject items in an appropriations bill. Those items could then be approved only by a separate vote in the Congress. The measure essentially would expedite the existing process for consideration of rescissions.

I believe this bill would increase the accountability of both the executive and legislative branches for reducing wasteful spending. It would provide an effective means for curbing unnecessary or inappropriate expenditures without blocking enactment of critical appropriations bills. Some have expressed concern that this proposal might threaten the prerogatives of the Congress, but I do not believe that it would shift the constitutional balance of powers that is so critical to the success of our form of government.

I urge the House to work with me to control government spending by agreeing to consider the expedited rescission issue and by adopting H.R. 1578 as set forth in Part 1 of the Rules Committee's report.

Sincerely,

BILL CLINTON.

Mr. SOLOMON. Mr. Speaker, I thank the gentleman from South Carolina for yielding me half of his valuable time. I yield myself such time as I may consume.

Mr. Speaker, last November 16 I wrote to President-elect Clinton and warned him not to be "snookered" by the Democratic leadership into thinking that the so-called expedited rescission bill was a real true line-item veto.

It is not. As a matter of fact, the gentleman from Texas [Mr. STENHOLM], the major cosponsor of the bill, took the floor not less than a half hour ago to say that it was not a line-item veto. So let us not get these things mixed up.

Instead of requiring a super, two-thirds majority to override a President's line-item veto, this expedited rescission bill permits a simple majority of either House to block a President's rescissions, 50 percent plus one.

In other words, it would take only 51 Senators to reverse the President's cancellation of wasteful spending items in an appropriation bill.

That is not a line-item veto.

Let me repeat that. Under this expedited rescission bill, either House can override the President's proposed spending cuts and permit the little porkers to run hog-wild and free.

Mr. Speaker, President Clinton, as a Presidential candidate last year, said over and over again that he wanted a real line-item veto when he became President.

In his campaign book of promises entitled, "Putting People First," and I have the book in my office, and so does the Speaker, he wrote, and I quote: "To eliminate pork-barrel projects, and cut government waste, we will ask Congress to give the President the line item veto."

And yet, Mr. Speaker, we are told today that in the spirit of compromise with the Democrat leadership of this House, the President now supports this weak-kneed alternative to a line-item veto that allows as few, and I repeat, as 51 Senators to overturn him. That means we are never going to eliminate any line items, period.

Mr. Speaker, all this Spratt-Stenholm bill does—with all due respect to the two sponsors who I greatly respect—is to package and expedite the current rescission approval approach contained in the Budget Act, and mandate that the House vote on it.

Well, Mr. Speaker, Big Deal.

If the House rejects the President's spending-cut package, we are told this new bill would mandate consideration of an alternative bill reported by the Appropriations Committee—that is, if they bother to report any bill at all.

Otherwise, there will be no spending cuts, only more spending increases.

If the House approves the President's spending cut package but the Senate rejects it, then maybe a Senate Appropriations alternative will be considered.

But, this runs into constitutional problems if we treat rescissions as we do appropriation bills which must originate in the House, not the Senate.

So we are left between a marshmallow and a soft place, which is probably where we deserve to be since this bill has no teeth to speak of at all.

Mr. Speaker, our Republican approach, on the other hand, reverses the current rescission process by saying that the President's—any President's—rescission package will stand unless a majority of both Houses have the guts to stand up and disapprove them and the disapproval bill becomes law.

Since the President would likely veto such a disapproval bill, because it is his bill, our approach would ultimately require a two-thirds vote of both Houses to override the President and force the money to be spent.

Now that is about as close to a true line-item veto as you can get without going the constitutional route which we cannot do in a matter of days or even months or even years.

That is the approach taken in most of the 43 States where Governors have been given line-item veto authority, like the gentleman from Delaware who is now a member of this body.

I think it is terribly important, Mr. Speaker, to make this distinction at the outset between expedited rescissions and line-item veto, enhanced rescissions.

Let no one in this House or elsewhere be deluded into thinking that if you pass H.R. 1578 you will be giving the President the line-item veto. Read all the editorials around the country.

Compared to a true line-item veto, this bill is little more than a wet noodle on a fast track to nowhere.

Mr. Speaker, I am grateful that the Rules Committee has at least seen fit to make our Republican line-item veto amendment in order.

And I want to commend our distinguished Republican freshman class and their task force that has been working on this issue—Representatives MIKE CASTLE of Delaware, JACK QUINN of New York, and PETER BLUTE of Massachusetts.

And I also want to commend our distinguished Republican leader, BOB MICHEL, for developing his amendment to include special interest tax provisions which are targeted at a single individual or single firm for inclusion under the President's enhanced rescission authority under our bill.

I only regret that the Rules Committee did not see fit to give us an open rule to allow our Republican leader to offer that same amendment to the real base text of the bill, which is the one that has the best chance of passing.

I think it would strengthen whichever approach ultimately prevails in this House.

And I also regret that the Rules Committee shut-out their own Democrat freshmen who had a substitute that made the Spratt bill permanent instead of 2 years and extended it to cover tax expenditures, which is what the amendment of our Republican leader, the gentleman from Illinois [Mr. MICHEL] does. That was a good approach.

Mr. Speaker, I know that some of the Democrat freshmen say they can support the Spratt bill, or at least the earlier version of it.

But I think they had an interesting and valuable alternative contribution to make to this debate and that they should have had their day in court, and if we had defeated the rule a few minutes ago that passed by a couple votes, they would have had that day in court.

Mr. Chairman, I want to urge my colleagues to vote for the Castle-Solomon substitute which gives the President true legislative line item authority over all appropriation bills in fiscal years 1994 and 1995. Let us give it a trial run and see how it works.

And I urge my colleagues to vote for the Michel amendment to that amendment which would give the President the same authority over these special tax provisions that only benefit one or two or a limited group of individuals. That is wrong and that is what the American people want corrected.

Mr. Speaker, should our true line-item veto substitute fail, this House is left with another up or down vote on a bill that has no more teeth than existing law. It has not had one day of hearings, as my good friend, the gentleman from Pennsylvania [Mr. CLINGER] from the Government Operations Committee will attest to in a few minutes, and passing it will do nothing but take the pressure off the Congress for years to come to take up a real line-item veto. The President and the leadership of this House will claim that the President already has the line-item veto, when in fact he absolutely has nothing.

And it will probably take several years before the American people even realize they have been hoodwinked and snookered. And then they will be madder than ever that Congress is playing the same old games.

Mr. Speaker, I say all this in criticism of the bill and not in criticism of the gentleman from Texas [Mr. STENHOLM] or the gentleman from South Carolina [Mr. SPRATT] who have brought this matter this far. They are both gentlemen who are honest and sincere about what they are doing.

They have made it quite clear on this floor on numerous occasions that this bill is not a true line-item veto.

The gentleman from Texas [Mr. STENHOLM] is sitting over there right now, and I hope he is going to get up and say it again. He will stand up and say that he opposes a true line-item veto, and by voting for this bill, you are not voting for a line-item veto. That is very clear.

But even the President is already referring to this as a "modified line-item veto" to enable him to back away from his campaign promise. And it will not be long, I am sure, before the President drops the term modified and tries to claim credit for this as the line-item veto he promised. Members of this House, we must not mislead the American people.

Let us call a spade a spade and a wet noodle a wet noodle. You can vote down this piece of soggy pasta. You can vote for the Castle-Solomon spade that will enable the President to root out wasteful Government spending and give those porkers the decent burial they deserve.

That is what the American people want and that is what we should have the guts to stand up and vote for and put our partisan bickering aside.

Vote for a true line-item veto. You can do it by voting for Castle-Solomon tomorrow morning when we take up that amendment.

Mr. SPRATT. Mr. Chairman, I yield myself 5½ minutes.

Mr. Chairman, I rise to support H.R. 1578 and to explain how it works.

This bill, Mr. Chairman, arms our President with a new option. When the Congress sends him an appropriation bill today, he has two clear choices. He can sign it or he can veto it, and one murky choice: He can also, under present authority, rescind it and send a rescission measure up to the Congress seeking to cut out spending that he thinks is wasteful or unwarranted. But he has no idea what will happen to that rescission when it gets there. This bill addresses that uncertainty and gives a roadmap to the President, gives him a guarantee, an assurance, that, if he sends us rescinded items, deleted items, that he thinks ought to come out of appropriations bills, then within a short period of time he is guaranteed consideration on a vote on the House floor.

Now this bill has been attacked in the debate today as a sham, something that is not really workable, not in addition to the process. Well, it is unfair. It has also been said that there have been no hearings on the bill. Our committee, the Committee on Government Operations, had a hearing on March 3 and 4, 1993. We had witnesses from GAO, Mr. Socolar, from CBO, Mr. Reischauer, from OMB, Mr. Panetta himself, from Brookings, Dr. Joe White, an

economist, from CRS, Lou Fisher, a respected fiscal expert, Mr. MICHEL, the minority leader, and the gentleman from Texas [Mr. STENHOLM]. A complete hearing on this bill was debated once before in effect because it is the same version. It is an updated version of a bill that we adopted last year, passed in the House in October of last year.

Built into this bill is a very carefully wrought roadmap, a schedule, a procedure, so that the President is assured he gets a vote when he sends this matter up here. By the close of the second legislative day, within 2 legislative days after he sends it up here, the bill calls upon the majority leader, or the minority leader, to introduce the bill that the President has requested. Failing action by the majority leader, by the minority leader, any Member in this House, any Member, may introduce the President's rescission bill on the third legislative day after it is sent up. That is the fast track.

Once the bill is filed, the bill goes to the Committee on Appropriations. The Committee on Appropriations has 7 legislative days to report the bill without any substantive revision because one thing this does also guarantee the President is a guarantee he does not now have under the law of the Constitution. It is that whatever rescission request he sends up here, he gets it considered in that matter, no changes, no substantive revisions.

Within 10 legislative days after the bill's introduction, the bill comes to the floor, and the House must vote on it up or down, as is, no changes. In addition to guaranteeing the President the vote, an expedited vote, a fast track, this bill gives him a vote on his specific request, as I said, with our substitute revision.

Now, Mr. Chairman, the bill that was first filed by my colleague, the gentleman from Texas [Mr. STENHOLM], would have established a procedure by which 15 Members could move to break out individual spending items for a separate vote. This bill does not set up a separate procedure as such for the following reasons:

First of all, that procedure would deny the President a vote on his own request, his own specific request, and OMB has made it clear that the President wants that prerogative. The President says so in the letter he sent the Speaker today. Second, if we allow individual items to be broken out for separate votes, we complicate the procedure on the floor of the House, and we prolong the consideration of this bill, and we are committed to having fast track, to having it brought up here and considered in a hurry, because keep in mind for the most part this is going to happen at the end of a session, and, if we do not act soon, we will not act at all.

So, Mr. Chairman, we gave the President in this bill the right to a specific action on his specific requests, but we also upheld the prerogatives of the Committee on Appropriations. We did not trample upon their rightful expectations in that this bill, as amended by the rule, the Committee on Appropriations itself may report an alternative bill provided that its bill rescind at least as much budget authority as the President's bill. All of the cuts in the alternative bill have to come out of the same appropriations act which the President himself pursues, and when the House takes up this rescission bill, however, it must vote on the President's rescission request. It cannot offer the Committee on Appropriations' substitute

because the substitute can displace the request. That ensures that the House will act on it expeditiously.

When it goes to the Senate, the same procedure is repeated. The Senate Appropriations Committee also has the alternative of offering an option itself, its own option, but again in the Senate, as in the House, the President's request must be voted upon first.

Now, Mr. Chairman, I am under no illusion that this bill, or any enhanced or expedited rescission bill, or any line-item veto for that matter, if it were constitutional, is going to solve the deficit, even bring it down significantly. But our bill does guarantee at least one extra round of security for all public money we spend. If we arm the President with this extra power, frankly I do not think he will use it that much. I think it will probably serve the purpose more of inhibiting expenditures in the process here in the Congress than of resulting in rescission that comes from the White House. But either way, either way, I think we will strengthen the budget process and the public's respect for how we spend their money.

Mr. Chairman, that is why I urge the support and passage of this bill.

Mr. Chairman, I reserve the balance of my time.

Mr. CLINGER. Mr. Chairman, I yield myself such time as I may consume.

Mr. CLINGER. Mr. Chairman, the media has reported that the House has under consideration legislation to give the President veto authority over individual spending items. How wrong can they be? Even the Congressional Monitor has referred to today's bill as a modified line-item veto. They should know better. Others have said that the whole subject is an arcane sort of inside the beltway family fight about congressional process and procedure of really insignificant or marginal importance. They are dead wrong.

Mr. Chairman, there is a lot at stake here. There are a lot of very significant things at stake here, and we risk, with the votes we take today, losing an opportunity to get a real tool to do something about the deficit which is eating us alive.

So, I rise today, along with many of my colleagues, in opposition to the Expedited Rescissions Act of 1993. I do so with some measure of reluctance because in the past, and indeed in the present, I admired and supported proposals from the gentleman from Texas [Mr. STENHOLM], and I have great respect for the gentleman from South Carolina [Mr. SPRATT].

I am also reluctant because I have long supported efforts to provide the President with a line-item veto or legitimate enhanced rescission authority. In fact, I was an original cosponsor to Mr. STENHOLM's original legislation and have also cosponsored proposed line-item veto amendments to the Constitution.

The bill before us today, unfortunately, is a weak substitute designed to give this President, and only this President, token powers. The message from the majority is loud and clear: No meaningful powers shall be granted to the Executive to cut wasteful spending and whatever token power is given, Republican Presidents need not apply.

So today I am opposing this bill in its present form for two major reasons. One is based on procedural grounds and the other is based on the fundamental weaknesses associated with the bill.

First, I oppose this proposal due to the expedited means by which it was brought to the floor. I will insert into the RECORD a copy of a letter I sent to minority leader ROBERT MICHEL on March 30, regarding the expedited consideration of this legislation. In that letter I express my concern with the practice of bypassing normal committee procedures and taking important legislation such as this to the House floor without due consideration by the appropriate committee of jurisdiction.

The Government Operations Committee conducted one legislative hearing this year on the general issue of enhanced rescission authority, but no regular mark-up was held and no opportunity was given to Members on either side of the aisle to offer amendments. My committee chairman, Mr. CONYERS, before the Rules Committee said he was confident that the measure before us would have been voted out of the Government Operations Committee in its present form. I am not at all certain that this is true, and now, of course, we will never know.

Having already taken this expedited path to the House Floor, however, I called upon the Rules Committee to report a rule which granted the widest possible latitude in considering amendments. If amendments could not be widely considered by the committee of jurisdiction, they should at least be allowed on the House floor. Unfortunately, that is not being done here today. Once again the minority has been gagged and denied any opportunity to contribute, other than the base amendment which will be offered tomorrow.

The second reason why I am opposing this legislation in its present form is because I believe that it is fundamentally weak. On the surface, this bill appears to be a needed improvement in the budget process. In fact, though, it is an artful dodge, a means of avoiding genuine reform. To be blunt, it is a sham.

Mr. Chairman, I urge my colleagues to look at page 11 of the bill. Section 4, beginning on line 22, establishes an expiration date for the rescission process envisioned in this bill. That expiration date is 2 years after the date of enactment. A 2 year sunset clause is the equivalent of a promise of quick relief.

Bear in mind that the budget adopted by this House a few weeks ago covered a 5-year period. Not 2 years. Five years. One of the assumptions underlying that budget was the enactment of the largest tax increase in the history of the Nation. How can we, in good conscience, call for increased taxes over the next 5 years, but increased vigilance over wasteful spending for only the next 2 years?

That 5-year budget also called for the bulk of the spending cuts to be implemented in the 3d, 4th, and 5th years. If Congress should fail to make those cuts, the President will need additional spending controls in order to meet the deficit reduction goals in the budget he himself asked for. Yet the sunset provision in this bill denies him an effective rescission procedure at the time when it will be needed most.

In truth, Mr. Chairman, these few lines serve as a wink to the big spenders, and it is this sort of disingenuous legislating that so deeply angers our constituents. In search of a compromise acceptable to all parties, the authors of this bill have reached the lowest common denominator. It may be April 28, but this is an April fools joke.

Had I been given the opportunity, I would have offered an amendment to make the authority provided in the Spratt/Stenholm legislation permanent. Because the majority party has no apparent respect for minority or committee rights, or even its own freshmen, the Rules Committee did not give me or them opportunity to present that amendment either in the committee or here today on the House floor. Had my amendment been offered and passed, I may have argued for passage of this bill. Because it was not even given the opportunity to be considered, I am opposing this bill today.

Earlier this year, I asked my constituents to identify the most pressing problem facing the Nation. It was the deficit—not skyrocketing health care costs, not environmental cleanup, not the decline of our educational system—that northern Pennsylvanians cited as the top national problem.

To respond to their concerns about the deficit by condoning this counterfeit reform is unthinkable, and I urge my colleagues to vote it down.

Mr. Chairman, the letter referred to earlier follows.

I reserve the balance of my time.

HOUSE OF REPRESENTATIVES,
Washington, DC, March 30, 1993.

Hon. ROBERT H. MICHEL,
House of Representatives, Washington, DC.

DEAR BOB: I am writing to express my concern with the process by which the House will consider enhanced rescission authority legislation. It now appears that Government Operations Committee Chairman John Conyers will discharge the Spratt-Stenholm compromise legislation from this Committee and, thereby, bypass the normal committee "mark-up" process.

Under this Committee's budget process jurisdiction, we held a legislative hearing on enhanced rescission authority in early March. Several minority members had expressed interest in this legislation and had planned to offer amendments in the Committee. Under the discharge process used by the majority, however, *no members* of the Committee will be given the opportunity to see the legislation prior to floor consideration much less have the opportunity to offer amendments. Given that most rules issued are closed, floor consideration of amendments as an option would also likely be precluded for members of the Committee.

This specific case is a good example of the more generic practice by some committee chairmen of unilaterally discharging legislation from their committees. I fear that this may become common practice given the new Administration, thus denying the minority a legitimate role in the legislative process.

I would appreciate your efforts in working with the Democratic leadership concerning this specific case and assisting us in regaining jurisdiction over this legislation by conducting a regular committee mark-up. I would also like to work with you on the more generic issue of committee chairmen unilaterally discharging legislation in order to eliminate this unfair practice.

Thank you for your assistance.

Sincerely,

WILLIAM F. CLINGER, Jr.,
Republican Chairman.

Mr. DERRICK. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the gentleman from New York pointed out that it was a shame we did not make the freshman Democratic substitute in order. I would point out to the body and to those who may be listening that all of those gentlemen who authored it, the gentleman from Minnesota [Mr. MINGE], the gentleman from Georgia [Mr. DEAL], and the gentleman from Washington [Mr. INSLEE], voted for the rule.

Mr. Chairman, I yield 2½ minutes to the gentleman from Minnesota [Mr. MINGE].

Mr. MINGE. Mr. Chairman, the new Members that are Democrats have been very concerned about a line-item veto. It is something that has been discussed widely and at great lengths within the Democratic new member caucus.

Mr. Chairman, we came up with our own bill and went to the Committee on Rules and said we need to make sure that the people of the United States and this Congress understand that this is an important concept, it needs to be enacted, and we would like to have you enact our proposal.

Mr. Chairman, all of us in Congress would like to have our particular language in the bill. After some discussion, we recognized that we are not all going to go away with our name on this bill or that bill. We are not all going to have each feature in the bill that may be important to us. But what was important to us as new Members is that we have a bill, that we make some progress, that we end the era of deadlock and gridlock in Congress and in Washington, and we move ahead.

Mr. Chairman, it is in that spirit that we were pleased that the Committee on Rules ultimately had a rule that was presented and which was passed by a narrow margin today.

Mr. Chairman, I cannot say that I am opposed to the amendment that the gentleman from New York [Mr. SOLOMON] is offering. It has many quality features to it.

Mr. Chairman, I am not opposed to the bill that is currently before us. It may not be as strong as I would like, it may be humble in many respects, but it is a start. What I would like to see us, as a body, do is to move aggressively, forthrightly, and pass out of this Congress a line-item veto so that the American people know that we are trying to deal with the problems of the deficit responsibly and move on and deal with other problems that face our Nation, and show to the country that we in fact can do, and not just can debate.

Mr. SOLOMON. Mr. Chairman, I yield myself 1 minute to respond to my good friend, whom I have great respect for, and say the gentleman heard me praise the Democratic freshman proposal that was brought up to the Committee on Rules. I wish we were voting on that on the floor today. In the old days, only 2 or 3 years ago, we would have done that.

Mr. Chairman, I can recall 15 years ago as a freshman legislator on this floor right after Jimmy Carter had derecognized the Republic of China, Taiwan, as a freshman Member I had an opportunity to pass several amendments on this floor, working in a bipartisan effort. We wrote a Taiwan Relations Act which has stood for 15 years protecting that part of the world against international communism.

Mr. Chairman, we could do that today on this floor. The gentleman should have that right to have input into this legislation. Then we would come up with a piece of legislation that 100 percent of us would support, it would go to the President, and he would sign it.

That is what we are arguing about. That is what the gentleman, I think, as a new Member, probably ought to understand.

Mr. DERRICK. Mr. Chairman, would the gentleman yield?

Mr. SOLOMON. I yield to the gentleman from South Carolina.

Mr. DERRICK. Mr. Chairman, let me say that I was not arguing about whether it was a good proposal or not, but the fact of the matter is that it was considered by the Committee on Rules. And those freshman Democrats that proposed it are now supporting the rule and, I believe, I know at least two of them are supporting the bill.

They feel that they have been treated fairly. And if they feel they have been treated fairly, why should the gentleman complain?

Mr. SOLOMON. Mr. Chairman, I yield 3 minutes to the gentleman from Delaware [Mr. CASTLE], a former Governor of the State of Delaware and an outstanding new Member of this House, the sponsor of the Castle-Solomon true line-item veto, which will be voted on tomorrow morning.

Mr. CASTLE. Mr. Chairman, I thank the gentleman from New York [Mr. SOLOMON] for yielding time to me. I also praise him for his tenacity in pursuing this issue, as well as the work that has been done by the gentleman from South Carolina [Mr. SPRATT] and, of course, the gentleman from Texas [Mr. STENHOLM], the freshman Democrats and my fellow cosponsors, the gentleman from New York [Mr. QUINN] and the gentleman from Massachusetts [Mr. BLUTE], who will be speaking here as well.

I think the words "line-item veto" have gone into the common parlance of America. People really understand what this means.

If an executive in a State or local government line item vetoes a spending package, everybody knows they have to go back into that legislative body and usually get a two-thirds vote in order to override the line-item veto that the executive has imposed. And that is exactly what our line-item veto amendment, which is sponsored by myself and by the gentleman from New York [Mr. SOLOMON] and the gentleman from New York [Mr. QUINN] and the gentleman from Massachusetts [Mr. BLUTE], would do.

Forty-three of the governors have it today. Ninety-two percent of those who have been Governor approve it. Eighty-five percent of the people in polls across the United States of America want this particular legislation.

President Clinton has never said, as far as I can ascertain, "I support expedited rescission." He has said, "I support the line-item veto."

Those of us who ran on this issue, in my judgment, from the campaign paraphernalia I have read, generally ran on line-item veto, which is understood by everybody, not expedited rescission.

But this is a tremendous subject, and it leads to a great debate. It is probably the only bill that we will debate in which we cannot cost the public more money, because it is the only bill I know of in which we are actually going to be able to save money. It is simple to understand as well as not spending money. It gives us an opportunity to build budgets together. That is exactly what has happened at the State level.

I used the line-item veto once. Governor Clinton, when he was governor, used it, I believe, eight times in the last 8 years that he was governor of his State. Practically anybody who has had a line-item veto will tell my colleagues, just as has been said earlier on this floor, that it gives us the opportunity to sit down together, to debate the spending and financial issues so that we will understand it and to build our budgets together, the legislative and the executive.

It is not a shift of power, as has been represented, from the legislative branch to the executive branch. Rather, it is a tool to bring Republicans and Democrats and the Members of the Congress and the President of the United States together to do what I think the people of this country care more about than anything else: To try to balance the budget of the United States of America, which we have not succeeded in doing for 10 these many years.

This will give us an opportunity to all be accountable to this country for the budget decisions which we have to make. And my colleagues can vote as they please. They can certainly vote for our amendment tomorrow or they can vote for the bill tomorrow, but I think we need to understand, when that vote is cast tomorrow on the amendments and on the bill, that only the Castle-Solomon amendment is the one which is a true line-item veto.

Mr. SPRATT. Mr. Chairman, I yield 3 minutes to the gentleman from Kansas [Mr. SLATTERY].

Mr. SLATTERY. Mr. Chairman, I rise as an original cosponsor of the modified line-item veto proposal and strongly urge my colleagues to support it.

The American people are deeply frustrated by what they view as a lack of accountability, when it comes to the spending of their money. They are sick and tired of reading about the dollars being spent for pork-barrel projects like the Lawrence Welk house, and their frustration is shared by me and many other Members of this body.

The legislation before us will help end this frustration. This legislation provides the President with the authority to pull individual items out of an appropriation bill and force a vote on those items the President believes should be individually voted on.

This is a new power and a very important power. When these individual votes occur, pork-barrel projects are not going to be funded.

When I forced a vote on the Lawrence Welk project here on the floor of the House one evening, there were only 11 Members of this body that stood up in support of the Lawrence Welk project. Why? Because we had an individual vote.

Any suggestion that this legislation is not going to change the way this body does business is dead wrong. This gives the President an important new power. And I must confess that I have a deep concern about preserving the balance of power between the executive and legislative branches of Government. I believe that every Member of this body that has taken an oath of office to defend the Constitution should also be concerned about our balance of powers.

This legislation strikes an important balance that I think is absolutely essential, and it gives us an opportunity to try this concept.

Let me just say that the idea of a balance of power is not some abstract concept. Let me get very specific.

I have spent hundreds of hours trying to kill the B-2 bomber and hundreds of hours trying to kill the super collider. Both projects wanted by President Bush and President Reagan. They wanted to spend the money. I wanted to stop spending the money.

Now, had those Presidents had line-item veto power, they could have come to me and said, "Congressman, back off of your effort to kill those spending projects or I am going to line item everything in an appropriation bill that has something to do with Kansas."

My colleagues, this is real serious business we are talking about. I suggest we should go very carefully. Had both Reagan and Bush had that power, I suggest to my colleagues they probably would have used it, as any President would do. And they would exercise enormous power in obtaining their will in this body.

So let us go cautious, when we talk about this concept, very cautious. And I suggest to my colleagues that the proposal before us strikes a balance, gives us an opportunity to try this idea, to find out if it is really going to work, as we think it will.

Mr. CLINGER. Mr. Chairman, I yield 3 minutes to a very senior member of the Committee on Government Operations, the gentleman from California Mr. [MCCANDLESS].

Mr. MCCANDLESS. Mr. Chairman, I thank our ranking minority member for yielding time to me.

Mr. Chairman, I rise in strong opposition to this bill and the outrageous charade accompanying it. In bringing up this legislation, the Democratic leadership is once again deceiving the American people. They are engaged in a game of smoke and mirrors to fool this body and our constituents into believing that a vote for this bill is a vote for deficit reduction. That is simply not the case.

For those of my colleagues who have not yet had the chance to actually read the bill, let me point out two key sections. First, section three provides that this bill will apply only throughout the 103d Congress. That's right, it's a 2 year fix. I invite anyone who believes that we can bring about true deficit reduction or eliminate a \$4.1 trillion national debt within 2 years to give me a call about a bridge I have for sale.

Second, I would like to point out a well-hidden little provision in H.R. 1578 which undermines whatever small remaining good this bill might have. Section 2(b) permits either House to waive the provisions of H.R. 1578 at any time by a simple majority vote. In other words, the so-called expedited and mandatory rescissions can be waived, suspended, circumvented, or just plain ignored by either House by simple majority resolution.

Mr. Chairman, I fail to understand why your leadership continues to deny this body the opportunity for true deficit reduction by refusing a vote on the line-item veto. The American people will not be fooled by this little game. It is showmanship—smoke and mirrors worthy of the Amazing Kreskin. While I admire a good illusion as well as the next, I cannot support it when the tricks we are playing are on the American people. They deserve more from this House and more from its leadership.

I urge my colleagues to vote “no” on this bill and demand instead a chance to bring about real deficit reduction; give us a vote on the line-item veto.

Mr. DERRICK. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Michigan [Mr. STUPAK].

Mr. STUPAK. Mr. Chairman, I rise in strong support of H.R. 1578, modified line-item veto legislation.

I'm not here to place blame on past acts of Congress or Presidential administrations. I'm here today to lend my voice and strong support for fiscal responsibility. As a newly elected Democrat Member of Congress, I'm pleased to join with the gentleman from South Carolina [Mr. SPRATT] and my fellow freshman Democratic Representatives to bring new accountability—and integrity—to our Government.

This legislation would give the President a much needed tool to eliminate unwarranted spending, the kind of spending that has often been the subject of public ridicule. The legislation would allow the President to send over a rescission package within 3 days of signing an appropriations bill. The Congress would then be required to vote up or down on that package.

Not only would this legislation grant a line-item veto to the President, but the gentleman from South Carolina has provided us with a very constructive roadmap to bring greater accountability to Government spending. If the President's package is defeated in the House, then the Appropriations Committee would draft its own rescission package, provided that the aggregate amount of cuts are equal to or greater than the President's.

I am pleased to join my Democrat freshmen colleagues in asking for fiscal responsibility and for demanding congressional enforcement of cuts that all Americans know must be made. Its both good fiscal sense and good common sense.

Mr. Chairman, I urge my colleagues to support this legislation.

Mr. SOLOMON. Mr. Chairman, earlier I had introduced the gentleman from Delaware [Mr. CASTLE] as the major sponsor of the true line item substitute. The gentleman from New York [Mr. QUINN] is the other, along with the gentleman from Massachusetts [Mr. BLUTE].

Mr. Chairman, I yield 3 minutes to the outstanding freshman, the gentleman from Buffalo, NY [Mr. QUINN].

Mr. QUINN. Mr. Chairman, I thank my fellow New Yorker [Mr. SOLOMON] for yielding me this time.

Mr. Chairman, I rise today in strong support of the substitute amendment to H.R. 1578 offered by my friends, the gentleman from Delaware [Mr. CASTLE] and the gentleman from New York [Mr. SOLOMON]. To put it simply, Mr. Chairman, it is the real thing.

Mr. BLUTE of Massachusetts, Mr. CASTLE and I offer a real statutory line-item veto—this is a real alternative to the enhanced rescission authority amendment offered by the distinguished gentlemen from the other side of the aisle.

After all, it is what the new President of the United States asked for. Then-candidate Bill Clinton said, and I quote, "I strongly support the line-item veto because I believe we need to get Federal spending under control."

President Clinton did not ask for enhanced rescission, or some other Washington political doublespeak that amounts to nothing more than a watered-down substitute for the real thing.

We want to give the President what he asked for.

Like President Clinton, the freshmen class was elected to bring reform to Washington—Democrats and Republicans alike. We all took office in January to change the way things get done around here. There are many of us in this body who agree with President Clinton that he needs real line-item veto authority—many of us campaigned on the issue ourselves.

According to the polling we have seen, at least 80 percent of the people in this country want a real line-item veto. As Mr. CASTLE has already said, 43 of our Nation's governors have it—Mr. CASTLE used it himself as Governor of Delaware.

For the past month, Members from both parties have been talking together about the need for a line-item veto—so let's stop talking about it and let us get it done. Now is the time for us to keep our campaign promises. As President Clinton said last summer, "All we need is the courage to change."

Our real line-item veto alternative would allow the President to rescind any discretionary budget authority in any appropriations bill. A majority of the House would be needed to disapprove the President's cuts—and two-thirds would be needed to override a veto of the disapproval bill.

In effect, Congress would need a two-thirds majority to restore the items cut out by the President. Congress would be forced to justify each and every item in the Federal budget—and that is exactly what I believe we need to do to control spending.

President Clinton had it right during his campaign when he said that spending is out of control.

Mr. Chairman, in plain English, our substitute amendment is a real alternative which requires Congress to approve the President's spending cuts with only a simple majority in the Spratt-Stenholm. I ask my colleagues, can we really expect Congress to approve cuts in spending bills they just passed? I do not think so.

Look what happens every day in Congress with a simple majority—Congress taxes more and spends more—and when the money runs out, Congress increases its own credit line.

We need to change the way Congress overspends, overtaxes, and then increases its own authority to spend even more.

Mr. SPRATT. Mr. Chairman, I yield one minute to the gentlewoman from California [Ms. HARMAN].

Ms. HARMAN. Mr. Chairman, I supported this rule and was prepared to support it last week and last month. By its passage, the American people and the hard-working people of California's depressed South Bay are the winners.

As an original cosponsor of the Stenholm-Spratt majority line-item veto legislation, I know it gives us additional tools to reduce our crippling deficit. Congress must make more cuts, and I will support them, but the line-item veto gives our President the ability to require that Congress consider any individual appropriation on its own merits, and that will ensure that all remaining fat is eliminated from our budget.

I am a new Member committed to retaining and building high skill-high wage jobs. Part of that commitment means that Government must work as a partner with business to invest in the industries of the future. It is vital that we eliminate Government waste, to free up more money for private sector investment.

The majority line-item veto will go a long way towards cutting our deficit and freeing up that vital capital. I urge its passage.

Mr. CUNNINGHAM. Mr. Chairman, I yield 2 minutes to the gentleman from Arizona [Mr. KYL], a very hard-working active member of the Committee on Government Operations.

Mr. KYL. Mr. Chairman, I recently received nearly 300 requests for a Citizens Against Government Waste publication called The Pork Book, which outlines some of the most grievous examples of pork-barrel spending; I received hundreds of postcards and letters from constituents, demanding that congress consider spending cuts before tax increases. And, though we may disagree on what spending should be cut, there is no question that pork-barrel projects are the best place to start. If we can't control pork, we have no hope of attacking the bigger spending items in the budget.

A line-item veto is the only way to get at that pork. Candidate Clinton recognized this when he stated in Putting People First, "I strongly support the line-item veto because I think it's one of the most powerful weapons we could use in our fight against out-of-control deficit spending." President Clinton's support has now eroded to a bill for so-called expedited rescission, a weak substitute.

Three provisions of the substitute will minimize, if not eliminate, the benefits of a real line-item veto.

First, requiring a simple majority to override the President's rescission, rather than the two-thirds vote required in line-item veto legislation, indicates that Congress is not altogether serious about upholding the President's cuts.

Second, I question the provision which would allow the Appropriations Committee to offer its own rescission package. May I remind my colleagues that the Appropriations Committee is where much of this pork finds its way into spending bills. This seems to me to be asking the wolf to guard the hen house.

Last, a provision in the Stenholm/Spratt legislation which would allow the House to waive the rules during consideration of a rescission package is particularly disturbing. Members may recall that last April, the Democrat leadership was able to pass a rule that allowed Congress to ignore the President's rescission proposals and consider its own instead. The same maneuvering could occur under this substitute.

Mr. Speaker, as the Wall Street Journal editorial I am submitting to the RECORD points out, Stenholm/Spratt is not a real line-item veto.

My colleague from Arizona, Senator JOHN MCCAIN, described a real line-item veto's effect during Senate debate on the line-item veto earlier this month:

"Simply put, [line item veto] would help to install some fiscal sanity into an obviously out-of-control process, enhance Presidential accountability, and restore a measure of public confidence in the institution of Federal Government."

Mr. Speaker, I agree with Mr. MCCAIN, and so do the American people. I urge Members to support a true effort to eliminate pork-barrel spending—a line-item veto. Vote for the Castle/Solomon amendment, not Stenholm/Spratt.

Mr. Chairman, for the RECORD I am submitting an article from the Wall Street Journal of April 28, 1993.

LINE ITEM VOODOO

As with term limits, the American people by overwhelming margins endorse the line-item veto as a tool of political reform in the United States. Lately, influential Democrats such as Senator Bill Bradley have endorsed it. Bill Clinton campaigned for the line item veto last year, but now congressional barons are offering him a poor substitute that they hope will placate the public while it does little to curb government's instinct to spending.

Today, the House will likely debate something called "expedited rescission." It is to the line item veto what chicory flavored water is to Colombian coffee. It may look the same but one taste tells the tale.

A true line item veto would mean that the President would receive a spending bill from Congress and would then have the right to strike out items that he considered unnecessary spending. Congress could restore the spending but only by a two-thirds vote of both the House and Senate.

The ersatz "expedited rescission" process would be a charade. The President would have to sign an entire spending bill (often combining spending for three separate federal departments). He could attach a list of spending items he disagreed with and then ask Congress to eliminate them. But he couldn't ask that an existing program be reduced below its previous budget, and he couldn't cut a new program by more than 25%. The modest cuts he could suggest would stick only if both houses decided by majority vote to concur.

Rep. Ernest Istook is a freshman Republican from Oklahoma who has become a champion of a genuine line item veto. He presented his anti-pork credentials last year when he ran for Congress saying he'd refuse to vote for unjustified spending programs even if they helped his district. "A pig is a pig, even if it's one who lives at home," he said.

Rep. Istook says that "expedited rescission" will do almost nothing to control pork. He notes that many Members of Congress aren't embarrassed to be associated with pork barrel spending. They revel in it. "Only a President elected by all Americans can frequently rise above parochial concerns and act in the national interest," Rep. Istook maintains.

When the Cato Institute recently surveyed the nation's current and former Governors it found that 92% backed a true line item

veto. "It makes the difference between talking about cutting spending and making it a reality," says Doug Wilder, the Democratic Governor of Virginia. Not surprisingly, all 10 former Governors who serve in Congress back a line item veto for the President.

The push to replace the line item veto with a sham substitute is typical of how Congress is dealing with reform in this session. It is faking it.

Members reluctantly abolished several showboating select committees but then allocated their budgets to other panels so that no overall savings will result. The leadership adopted new House rules ostensibly to expedite legislation, but they'll have the practical effect of limiting real debate. The more Members of Congress avoid changing their arrogant ways, the more the public will continue to clamor for the only real reform it knows will stick: term limits.

The CHAIRMAN. The Chair will announce the times that remain for the various participants.

The gentleman from South Carolina [Mr. DERRICK] has 15 minutes remaining, the gentleman from New York [Mr. SOLOMON] has 13 minutes remaining, the gentleman from South Carolina [Mr. SPRATT] has 20½ minutes remaining, and the gentleman from Pennsylvania [Mr. CLINGER] has 18½ minutes remaining.

The Chair recognizes the gentleman from South Carolina [Mr. SPRATT].

Mr. SPRATT. Mr. Chairman, I yield 2 minutes to the gentleman from Nebraska [Mr. HOAGLAND].

Mr. HOAGLAND. Mr. Chairman, I am pleased to be here today supporting the product of the gentleman from South Carolina [Mr. SPRATT] and his subcommittee, because it is a good piece of legislation.

We are hearing an interesting argument from our colleagues on the minority here that it does not go far enough, that it is not the genuine line-item veto, and if we cannot have all or nothing we should defeat it.

I would make two points. First of all, that raises the question of what is our job here in Congress to do. I always thought that it was our job to try to improve the existing body of statutory work in the United States Code. This clearly improves it. If it improves it, if this legislation makes it better, then let us support it because the statute, the day after the President signs this, will be better than the day before the President signed it.

The opposition coming from that side reminds me of two other recent instances where we were advised to vote against a statutory alternative to a constitutional amendment because it did not go far enough. I remember back in the days of the flag-burning amendment when we had a statutory proposal to make flag-burning illegal. The opposition said wait a minute, we want a constitutional amendment. This is not good enough. We are going to vote against it. They voted against it and we had no statute the second time around.

Then there was the time last year when we had the constitutional amendment for a balanced budget, a constitutional amendment that I support came up on the floor, and before that vote we voted on the statutory version prepared by Chairman SPRATT and his colleagues. I was a cosponsor of that. That put in the statute

a requirement that the President submit and that the Congress vote on a balanced budget, not a constitutional amendment, but a statute.

The point is that once again the minority was opposed. So once again the minority said we want a whole loaf; we are not going to take any compromises.

The Spratt-Hoagland statutory version of the constitutional amendment failed, and a few days later the constitutional amendment itself failed, so we were left with nothing.

Now the third time around we are hearing the same argument.

My point is that it is not easy to pass a constitutional amendment. It takes two-thirds of the vote in both houses, three-quarters of the State legislatures and several years to pass and to go into effect. This is to improve the statute. It is going to give the President a version of line-item veto. Let us pass it here this week.

Mr. CLINGER. Mr. Chairman, I am pleased to yield 2 minutes to the gentleman from New Mexico [Mr. SCHIFF], a member of the Committee on Government Operations.

Mr. SCHIFF. Mr. Chairman, I thank the gentleman for yielding me the time.

Mr. Chairman, the American people want a line-item veto. Make no mistake about that. They understand the benefits versus any possible risks, but they have decided in favor of it, and that is shown by the fact that 43 governors today, including the Governor of Arkansas and the Governor of New Mexico have the line-item veto.

H.R. 1578, as presently written, is not a line-item veto. It is not even a modified line-item veto as it has been incorrectly portrayed.

It is first of all not a line-item veto because any rescission that comes back from the President comes back as a package and is voted on as a package and not individually. Second of all, it is not a veto because it can be overridden by a majority, not by a two-thirds vote as required in a true veto.

Just as significantly, this bill is not even the enhanced rescission that has been previously talked about. The Government Operations Committee hearing that was previously described discussed the concept of an enhanced rescission. It did not discuss this bill. I do not believe this bill had even been introduced.

There is a reason why, and it has been pointed out by a number of speakers, why the majority would not even let the committee of jurisdiction, the Government Operations Committee, review this bill and vote on it, because other defects in it I am sure would be exposed also. But this particular bill is particularly a sham because it allows the Appropriations Committee to offer, in essence, a side-by-side substitute. One may ask what is wrong with that. After all, it has to be in the substitute, the same amount and from the same appropriations bill. The answer is that it is the budgetary process wherein we deal with total amounts. The purpose of a line-item veto, and even true enhanced rescission is to focus attention on the programs that have been named, not on a specific amount, but to eliminate those programs that we do not need anymore, regardless of those amounts. This bill offers a shell game in which we will never get that done.

In conclusion, Mr. Chairman, I want to say that the majority has invoked the name of President Clinton a number of times. I think that we should invoke all of what President Clinton said as a candidate. The President said that he wanted the line-item veto. I think we should give it to him.

Mr. DERRICK. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Florida [Mr. HUTTO].

Mr. HUTTO. Mr. Chairman, I thank the gentleman for yielding me the time.

Mr. Chairman, I rise in support of a modified line-item veto bill, or enhanced rescission, or whatever you want to call it.

For several years now we have heard a lot of talk about the line item. The Presidential candidates supported it. The President supports it. And in my district a lot of people support it, and some people support it and do not understand all of its implications.

As a matter of fact, at town hall meetings and in talks with individuals in my district, they have asked me about the line item and I have said no, I am against the line-item veto. And they would want to know why. And of course when I would tell them, then they understood, because I would tell them that this puts too much power, vests too much power in one individual or in the executive branch of Government. But not only that, it turns over a lot of the Government, I think, to the unelected bureaucrats in the OMB.

But I would say to them that I have a better plan. I would be for mandated rescissions because now the President of the United States can rescind appropriations, but then he will send them to Congress, and oftentimes nothing is done. They are not brought to a vote, and thereby the rescissions do not stand. They are not rescinded. So when I explain that to them, they can understand that, because they know that a President could be very vindictive, as we heard another speaker say here today.

So I appreciate the fact that the gentleman from South Carolina [Mr. SPRATT] and our colleague from Texas [Mr. STENHOLM] have brought to the floor this legislation which is good legislation and should pass. And for those who want line-item veto, this is a much better remedy. It will help to remedy the fiscal problems that we have in this country, and I believe that Members should support it, as more than 300 of our colleagues in the House of Representatives supported it last year. But of course it did not pass the other body.

Vote for H.R. 1578.

Mr. DERRICK. Mr. Chairman, for purposes of debate only, I yield 1 minute to the gentleman from Oklahoma. [Mr. MCCURDY].

Mr. MCCURDY. Mr. Chairman, I rise in strong support of this legislation to provide a modified line-item veto authority for the President of the United States.

This bill provides a mechanism to impose spending discipline upon the Congress and strengthen the leadership of the President. It is my sense that, like our constituents, we are frustrated by our own inability to sort out the wheat from the chaff in appropriations bills. We struggle to work our will on the smallest issues because greater ones are tied to them through the appropriating process. And we make cynics of our constituents by telling them that we are somehow helpless to change what we know are bad decisions.

This bill keeps intact the separation of powers embodied in our Constitution. The power of the purse remains chiefly in the hands of the people's own representatives. In fact, this bill enhances our ability to be counted and make our will known. I believe the House does not shrink from accountability in adopting this bill. Rather, we embrace it.

This legislation also imposes more accountability on the President of the United States. I know that President Clinton is eager to make the case for his decisions and will not flinch from doing so.

Mr. Chairman, the American people made two points abundantly clear in the last election. First, they want to be rid of the gridlock and consequent finger-pointing that developed over the last 12 years of divided government. And, second, they want the leaders of our government to get the Nation's fiscal house in order. This legislation will help us demonstrate that the executive and legislative branches can work together to the ultimate benefit of the people who sent us.

Mr. SOLOMON. Mr. Chairman, I yield 3 minutes to the gentleman from Massachusetts [Mr. BLUTE] who along with the gentleman from Delaware [Mr. CASTLE] and the gentleman from New York [Mr. QUINN] is another freshman Republican Member who has truly led the fight for a line-item veto from the day he took office.

Mr. BLUTE. Mr. Chairman, I thank my good friend from New York for that kind introduction.

Mr. Chairman, I think it is important that we put this line-item veto versus enhanced rescission debate in some perspective.

If you look at the current total debt of the U.S. Government run up by Washington, it amounts to \$4 trillion.

President Clinton's own budget projections indicate that he will add another trillion dollars to the Federal budget deficit over the first 4 years of his tenure.

Mr. Chairman, it was recently reported that 57 cents of every income tax dollar sent to the Federal Government goes to service debt interest alone. I think that indicates very strongly an argument for a strong line-item-veto authority for the President and not a watered-down, enhanced rescission.

It is time to stop this deficit spending. It is time to reform the budget process, and it is time to take very seriously the long-term damaging effects that deficits are having on our economy.

Mr. Chairman, another problem is that people are losing faith in their government, and they are losing faith in this House of Representatives. During the Presidential campaign just a few short months ago, we heard about the line-item veto from President Clinton, from former President Bush, and from Ross Perot. It was as close to a consensus issue as there was in the last campaign.

But something funny happened on the way to governing. Everything is different now, and we are talking about a watered-down enhanced rescission that is not strong enough to do the job that the people want done to our Federal budget deficit. The full line-item veto is what the American people want. They understand it, as my colleague, the gentleman from Delaware, said, and they want it because it works. They know it works because they lived under State

governments who utilize it to discipline the budget process. It works because it raises the threshold of scrutiny for spending. It works because it institutes accountability. No longer can people hide pork-barrel spending in larger budgets and present them to the President to either sign or veto. It works because it brings the executive, the President of the United States, into the game as a deficit fighter.

Because, after all, the President is the only elected official elected by everyone, elected by the entire country, who has to take into consideration the big picture, the macroeffect of this deficit spending.

It works in 43 States, and as the Founders envisioned, the States are the laboratories of democracy. If it works in 43 States, it can work for the Federal Government. It can help us get our Federal budget deficit under control.

I ask my colleagues on both sides of the aisle to support the strong full line-item veto for the President of the United States.

Mr. SPRATT. Mr. Chairman, I yield 2 minutes to the gentlewoman from Tennessee [Mrs. LLOYD].

Mrs. LLOYD. Mr. Chairman, I rise today in strong support of H.R. 1578, the Expedited Rescissions Act. This is a measure that is long overdue and I commend all those involved who have worked so hard on this legislation. I supported this legislation in the previous Congress and I am glad to have the chance to do so again.

This bill will bring greater control to the Federal budget process and create a significant opportunity for deficit reduction. It forces Members to go on record regarding their commitment to spending reductions and allows constituents to see the direct results. This bill allows the President and Congress to clarify the areas where we can achieve savings and it enhances the responsibility of each Member to follow through on that commitment.

Expedited rescission. It will make Congress more accountable for the programs and projects it supports and more aware of its overall spending habits by allowing programs to stand or fall on their individual merits. This bill provides a control that is desperately needed in our current economic climate and one which the American people have long called for.

I have heard from many constituents in my district who have expressed their support for this measure. Just a few months ago the people indicated that they want change in their Government and in the way it conducts its business. H.R. 1578 provides just such a vehicle to bring about necessary, positive change.

However, I do not support a line-item veto. I believe it is imperative that we maintain a balance and separation of powers as defined in our Constitution. This legislation is a better way. To my friends and colleagues who are today supporting the line-item veto, I hope you remember that the Clinton administration Department of Defense authorization bill will be before this body later this year. Many of you will express your disapproval and vote against this legislation at that time. Today, you are supporting a line-item veto and I expect to see the same support from you when the Defense authorization bill is considered.

We must seize the chance to act now and create a more efficient, productive legislative system that renews our accountability and

restores the public trust in this institution and I encourage your support.

Mr. CLINGER. Mr. Chairman, I yield 2 minutes to the gentleman from Wyoming [Mr. THOMAS], a very thoughtful and valuable member of the Committee on Government Operations.

Mr. THOMAS of Wyoming. Mr. Chairman, I rise to support the real line-item veto, the Solomon-Castle amendment.

I have listened to the debate, and I have listened to it for a very long time, as a matter of fact. But what really counts has been the performance of this Congress over time.

Regardless of your party or your ideology, common sense dictates that if you expect different results, you have to do things differently.

I have listened for a long time now: lots of accusations, lots of time spent on assigning blame, Republican Presidents and Democrat Congresses. But the fact remains that there is a debt of \$4.5 trillion, that we face a shortfall of \$250 billion to \$300 billion annually.

My friend from Nebraska indicated that a statutory change is certainly a movement forward. We have had statutory controls, Gramm-Rudman, for a very long time. It did not work. The result is it did not work. The evidence is it did not work. The debt is the measure. That is what we must change; \$4.5 trillion is the result of the system we have and the operations that we have had.

The result will not change unless we do something differently, and the rescission is not something that is different.

The budget before this body that we will be considering soon will add to the debt another trillion dollars by the best estimates and probably more.

The President has had rescission authority and still does. It has not worked. It will not work.

The voters in my State want to reduce spending. They want some procedural changes that will produce results and that the results will be different. A real line-item veto and a balanced-budget amendment are necessary.

So this whole thing is not about blame. It is not about more promises. We have heard those, that the Congress is going to change their behavior, and they have not changed their behavior.

It is about changing a procedure that will produce results, that will stop growth in the debt and will start to reduce it.

I support the Solomon-Castle amendment and urge my colleagues to do the same.

Mr. SPRATT. Mr. Chairman, I yield 2 minutes to the gentleman from Tennessee [Mr. TANNER].

Mr. TANNER. Mr. Chairman, I want to thank the gentleman from South Carolina [Mr. SPRATT] and the others who have worked so hard to move this legislation to the point where we have it tonight.

As a third-term Democrat and a moderate Democrat, I am pleased that the freshman Democrats who have come where have joined us in this effort to make what I consider to be a really historic change in procedural law around here. It is incremental, at best. It is a pilot project, to be sure. But it is nonetheless very substantive.

It cedes more power, quite frankly, to the executive branch than some in this body would like to see. It does not go as far as many others think wise.

But 43 States have some form of this power in their laboratories, as they were called earlier, including our own of Tennessee.

I want to say that people of this country have been referenced in this debate all afternoon. My constituents tell me, as people of this country, that what they really want is for us to come together and govern responsibly. They are tired of rhetoric with no action. They are tired of the whiners and the extremes on both sides of the aisle saying over and over again, "No, my way or no way."

America is bigger than that. It is bigger than any of us. It is bigger than any political party. And they want us to govern, to compromise, to come together to move forward.

This bill does that. It gives us an opportunity to bring the President into the mix to fight this horrendous debt.

As I said earlier, it is an instrument, one more instrument, to be used in the fight against irresponsible spending, and it is a step forward, yes, a small step, but nonetheless a step forward, and it ought to deserve our support and that of the country.

Mr. CLINGER. Mr. Chairman, I yield 2 minutes to the gentleman from New Jersey [Mr. ZIMMER], a rising star of the New Jersey delegation and a member of the Committee on Government Operations.

Mr. ZIMMER. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I have chosen to speak from the lectern on this side of the aisle, on the Democratic side of the aisle, because it is to the Democrats I would like to address my remarks.

I urge you to support our new Democratic President and vote for the real line-item veto.

When Bill Clinton was Governor, he had the power of line-item veto. He used it. He discovered how useful a tool it is for saving taxpayer dollars. When he was a candidate for President, he endorsed the real line-item veto in no uncertain terms.

And after he took office, he has kept his allegiance to the concept of a real line-item veto. When he met with Republican Senators shortly after his inauguration, they presented him with a 2-foot-long pen which symbolized the power of the line item veto. He told them, "I sure hope I will be able to use this." So that is what the President really wants.

But the Stenholm bill is not what the President asked for. It is not a line-item veto. Its sponsor, CHARLIE STENHOLM, told you as much.

Under Spratt/Stenholm, a majority of either House can kill a rescission and restore an appropriation, and there is no line-item veto anywhere in the country that works that way. The Spratt/Stenholm bill does not give the President a 2-foot-long pen; it gives him a teeny weeny 1-inch pen, and it is full of disappearing ink.

So, I urge you, support the President, support Castle/Solomon, and we will have a true line-item veto.

The CHAIRMAN. The Chair will indicate the times remaining on all sides: The gentleman from South Carolina [Mr. DERRICK] has 12 minutes remaining; the gentleman from New York [Mr. SOLO-

MON] has 10 minutes remaining; the gentleman from South Carolina [Mr. SPRATT] has 13½ minutes remaining; and the gentleman from Pennsylvania [Mr. CLINGER] has 12½ minutes remaining.

Mr. DERRICK. Mr. Chairman, I yield 3 minutes to the gentleman from New Jersey [Mr. KLEIN].

Mr. KLEIN. I thank the gentleman for yielding to me.

Mr. Chairman, as an original cosponsor, I rise in strong support of H.R. 1578, the Expedited Rescissions Act, and I might say that even though I will be addressing some of my remarks to those on that side of the aisle, I will remain on this rostrum.

You know, when I decided to run for Congress, I did so because I wanted to create real change. The people in my district elected me to help make our Government more responsive, more fiscally accountable. Fiscal responsibility is a two-way street. It requires us to face the long-neglected problems of our country, like the sick economy and the loss of jobs, in an honest and forthright manner.

But it also requires that we act to control spending. The Stenholm/Spratt bill will restore accountability and fiscal responsibility to our Government. It will eliminate pork-barrel and reduce wasteful spending by giving the President the authority he needs.

We are at war, my friends, and our enemy is the budget deficit. The Stenholm/Spratt legislation is a key weapon in the arsenal we need to win that war.

We must begin the battle today because we cannot wait any longer. I am sick and tired of hearing those who keep on talking about, "It is not enough."

Legislation over and over again that I have heard mouthed as being, in principle, good is voted against on the theory that it is not enough.

I heard my colleague from New Jersey a moment ago say that he supports the Solomon/Castle bill, but he voted against the rule that would have permitted consideration of that bill. The real answer is those on the other side of the aisle who are talking about fiscal responsibility are really talking about political gimmicks. This bill gives the President power for the first time to do something about line-item veto or enhanced rescission, whatever you want to call it.

It does something concrete, something affirmative; and those who have repeatedly said that they were in favor of them, indeed in the last session voted for this kind of legislation, are now saying it is not enough.

Well, gentlemen, it is time to put your money where your mouth is. It is time to give the President the ammunition he needs to eliminate wasteful spending. It is time to step up to the plate and give the President the opportunity to fulfill his plan to reduce the budget deficit.

I urge everyone who really believes in fiscal responsibility to vote for the Spratt/Stenholm bill.

The CHAIRMAN. The Chair would indicate that he misspoke the time of the gentleman from South Carolina [Mr. SPRATT]. His time is 14½ minutes.

Mr. SOLOMON. Mr. Chairman, Mr. SPRATT has 14½ minutes left; is that what the Chair said?

The CHAIRMAN. Yes.

Let me restate the time so everybody will know: The gentleman from South Carolina [Mr. DERRICK] has 8 minutes remaining; the gentleman from New York [Mr. SOLOMON] has 10 minutes remaining; the gentleman from South Carolina [Mr. SPRATT] has 14½ minutes remaining; and the gentleman from Pennsylvania [Mr. CLINGER] has 12½ minutes remaining.

Mr. SOLOMON. Mr. Chairman, I yield 3 minutes to a very distinguished Member, the gentleman from Florida, Mr. CLIFFORD STEARNS.

Mr. STEARNS. I thank my distinguished colleague from New York [Mr. SOLOMON] and compliment him again on his tenacity in this very, very important fight.

Listen up, my colleagues: I am going to attempt to explain the difference between an expedited rescission and an enhanced rescission. Now, I warn you this is almost toxic, it causes permanent inducement of sleep and perhaps glazing of the eyes. I want you to listen up.

I have a chart here with which we are going to explain frankly for you folks, particularly you on the Democratic side, to show the difference.

Let us take a look at this: We have the Solomon/Castle amendment. After the President does his rescissions, it comes to the Congress and receives his rescissions. It needs a majority to disapprove the cuts. A two-thirds' vote to override the President's veto. If Congress does nothing, then the rescissions take effect, 20 days to do it. This is the key right here: If Congress does nothing, then the rescissions take effect.

So, what we are going to have is a real veto under the Solomon/ Castle amendment.

Now let us look at the Spratt amendment down here. After the President does his rescissions, it comes to the Congress. The action: 1 to 3 days to introduce the legislation, and 10 days to vote. The President's rescissions will not take effect until Congress approves them.

Now, this is a key point between the two amendments. In discussing this part with the parliamentarian's office, they agreed that if the House does not act in 10 days, the money should be available for obligation. That is, the money will be spent and not cut.

That cannot happen under the Solomon/Castle amendment. Here, if nothing is done in 10 days, the money will be spent, and the President will not have his veto. That is a key item.

And something else that is not discussed by the folks on this side of the aisle: Under the Spratt amendment, the rescissions could be put on suspension. That is a little technical, it causes people to glaze in the eyes; but that means it gets put on the shelf. The only way to get it off the shelf is by a two-thirds' vote.

So, in other words, one-third of the folks in the House could deny the cuts that the President had. That is another good reason not to vote for the Spratt amendment but to vote for the Solomon/ Castle.

Mr. SOLOMON's amendment makes absolutely sure that Congress cannot hide but must come front and center with what it disapproved of the President's rescissions.

The Solomon amendment starts the Federal Government moving in the right direction. A balanced Federal budget, with prudent and responsible spending, is a hard thing to accomplish, but a journey of a thousand miles begins with one step.

Let us take that step tomorrow morning when we vote, and vote for the Solomon amendment.

Mr. SPRATT. Mr. Chairman, I yield 1½ minutes to the gentleman from Indiana [Mr. ROEMER].

Mr. ROEMER. Mr. Chairman, President Lincoln once said that the dogmas of the past are inadequate for the challenges of the future, and as the times are new, we must think anew and act anew.

This is a new and different idea, the modified line-item veto that Mr. SPRATT and Mr. STENHOLM have worked so conscientiously on and so hard on. I think we in Congress should give it a chance. The people of this country want to see reductions in spending.

They want to see us do something that has a net effect on the reduction of the deficit. This provision would help us do that. They want to see reform in Congress for a change and no more business as usual. This would help us reform the Congress.

It would be an experiment. Many people back home in Indiana say, "Put some laws and legislation on the books. Then if it doesn't work, take it off."

This legislation allows us to experiment for a couple of years.

Additionally, Mr. Chairman, it is a compromise. There are some people in this body who do not want to do anything at any time and there are other people who say it is not enough, so let us not do anything.

This is probably a fair compromise between the two.

Finally, as Members on both sides have been quoting our President, the President has said, "I believe this bill would increase the accountability of both the executive and legislative branches for reducing wasteful spending."

Mr. SPRATT. Mr. Chairman, I yield 2 minutes to the gentleman from Virginia [Mr. PAYNE].

Mr. PAYNE of Virginia. Mr. Chairman, I rise in strong support of H.R. 1578, the modified line-item veto, as introduced by my colleagues, the gentleman from Texas [Mr. STENHOLM] and the gentleman from South Carolina [Mr. SPRATT].

The President's 5-year plan to reduce the deficit and the bill before us today respond to the urgent call from our constituents to reduce the deficit and its negative impact on economic growth and job creation.

The bill now under consideration has been carefully crafted to maintain the balance of power between the executive and the legislative branches as provided in the Constitution.

The modified line veto will not by itself eliminate the deficit. But it will give the President and the Congress a powerful tool to eliminate unnecessary spending.

It will bring more accountability and responsibility to the budget process.

And it will send another clear message to those we represent that we are serious about reducing the deficit.

I congratulate Congressman STENHOLM and Congressman SPRATT, as well as our former colleague, Governor Tom Carper of

Delaware, for their work on this important legislation, and I urge my colleagues to support H.R. 1578.

Mr. CLINGER. Mr. Chairman, I am pleased to yield 3 minutes to the gentleman from California [Mr. HORN], a new member of the Committee on Government Operations who has already made many valuable contributions to the work of the committee.

Mr. HORN. Mr. Chairman, I believe in Presidential responsibility and Presidential accountability. If Congress cannot balance the budget, the \$300 to \$400 billion annual deficit that we are now running, then the President needs the authority to bring the budget back into balance.

I have long favored a statutory line-item veto.

I would like to include in this part of my remarks a telegram I sent to President Reagan on February 18, 1981, on that point:

This mailgram is a confirmation copy of the following message:

LONG BEACH, CA,
February 18, 1981.

President RONALD REAGAN,
White House, Washington, DC:

With your power to persuade the people I suggest that in cutting Government expenditures you ask the people to help you secure congressional enactment of authority to cut appropriations up to 10 percent in all budgets but Social Security and the others which you have specified would not be cut. Such a precise statement of the issue would prevent you from being nibbled away by special interests in the congressional process. If we have a crisis we need to act as if we have one and involve the public in helping you solve it. It could be that momentum has already been lost. If you lose on a vote up or down in securing such authority you can always go the regular congressional process.

Regards,

STEPHEN HORN,
President, California State University,
Long Beach.

I believe the President must have the authority to make the appropriate cuts, except in areas such as Social Security and comparable retirement programs. That was the authority I wrote into H.R. 1099, a freeze proposal on which this House has not been able to act.

While H.R. 1578 makes some progress, its fundamental flaw is that the House and the Senate can override the President's action by a simple majority.

The fact is that we saw earlier this evening what can be done with a majority in this body and how leaders can work to convert a few votes so that what was a majority in one direction became a majority in another direction.

The Founding Fathers, however, took that responsibility and decision of the President much more seriously. They required that if Congress was to override the President, the one official elected by the Nation as a whole, then it must do it by a two-thirds vote of those present and voting.

Legislation approved by this House and legislation in the other body must face up to the fact that this Nation is fiscally bleeding to death, and since there is a majority in this House to act to provide a strong line-item veto, I would ask the majority, why does it not act? It has line through its majority on every bill we have seen this year.

The standard should be the two-thirds vote to override a decision of the President of the United States. Then you would have a credible line-item veto. We do not have one now.

H.R. 1578 does not do the job. I urge my colleagues to vote against the bill before us.

Mr. DERRICK. Mr. Chairman, I yield 2 minutes to the gentleman from Arizona [Mr. COPPERSMITH].

Mr. COPPERSMITH. Mr. Chairman, I thank the gentleman from South Carolina for yielding this time to me.

I congratulate those Members who had the courage to defy their caucus and party leadership, and instead vote their conscience to allow the House to consider the line-item veto.

Now at long last we in this House can legislate and determine what kind of line-item veto to deploy.

I hope in this debate and the vote to follow that we focus on achieving the best possible form of a line-item veto. I personally will support the substitute of the gentleman from Delaware [Mr. CASTLE] and the Michel amendment. I am delighted that the two brave Republican freshmen have given me that opportunity at long last to do so. However, should either proposal fail, I still urge all supporters of the line-item veto to vote for the Spratt-Stenholm bill, even if their preferred version does not pass. A weaker version of the current Stenholm-Spratt bill passed this House by an overwhelming margin with strong bipartisan support. Suddenly a better bill is called worse than nothing by the other side.

Let us try to legislate the best possible line-item veto. Let us do the best we can and vote yes on formal passage, even if the Castle-Solomon substitute should fail. I realize this may be tough for Members who have rigged their voting cards only to vote no, but I urge my colleagues to vote yes three times tomorrow.

Mr. DREIER. Mr. Chairman, I am happy to yield 2 minutes to the gentleman from Ramsey, Minnesota [Mr. GRAMS], a hard-working new member of the Committee on Banking, Finance and Urban Affairs and the Committee on Science, Space, and Technology.

Mr. GRAMS. Mr. Chairman, a well known TV commercial claims: "There Ain't Nothing Like The Real Thing."

Well, they are right.

In voting for the Castle/Solomon substitute, the American people would get what they want: a real line-item veto.

The Stenholm/Spratt bill is not a true line-item veto—it is a sham. As the Wall Street Journal put it: if Congress passes Stenholm/Spratt, it is not really doing its job, it is faking it.

Forty-three of our Nation's Governors have a line-item veto, it is done to help them balance their budgets, unlike the Federal Government which lacks a line-item veto and has failed for decades to balance its budget.

Ten former Governors serve in this body, and all of them support the line-item veto.

President Clinton—a Democrat—supports the line-item veto, and as a former Governor, knows first hand how to use it. I am sure he wants a real line-item veto, not the fake version represented by Stenholm-Spratt.

As for the American people, polls show they overwhelmingly support the line-item veto and recognize it is an essential tool for getting rid of pork and wasteful spending.

Mr. Chairman, the fiscal crisis facing our Nation is too serious to play political games as we are doing today with the Stenholm/Spratt bill.

Thanks to Congress' appetite for spending, today every child in America is born owing \$16,000 as their part of the national debt. And right now, 20 cents of every tax dollar goes just to pay the interest on the national debt.

Mr. Chairman, the American people voted last year for change, and for Congress to get serious about reducing the deficit.

The line-item veto works, it is needed, and it is wanted by the American people.

Let us not fake it, let us do the right thing and the real thing.

I urge my colleagues to support the Castle/Solomon amendment, and give the American people a real line-item veto.

Mr. SPRATT. Mr. Chairman, I yield 6 minutes to the gentleman from Texas [Mr. STENHOLM] who is one of the authors and originators of this bill.

Mr. STENHOLM. Mr. Chairman, I rise today to encourage my colleagues to support H.R. 1578, modified line-item veto legislation.

This legislation, also called the Spratt-Stenholm bill, builds on a long history of bipartisan support for expedited rescission legislation.

Since there has been some misinformation circulating about the motives behind this bill, taking a brief look at that bipartisan history is in order. The first expedited rescission bill introduced in Congress was authored by Dan Quayle in 1985. In 1987, the gentleman from Texas [Mr. ARMEY] attempted to offer an amendment to the Omnibus Continuing Resolution that would grant the President enhanced rescission authority subject to majority override. In 1989, the gentleman from Texas joined with Representative TIM JOHNSON to introduce the Arme-Johnson Current Level Rescission Act of 1989. Under the Arme-Johnson bill the President could reduce existing programs only to their prior year's level and could reduce new programs only by 10 percent. The money would be spent if Congress failed to vote on the President's package. I do not understand how Mr. ARMEY can claim that his bill was the "Real McCoy" and criticize H.R. 1578 when his bill was considerably weaker than the bill before us today.

In the fall of 1989, a bipartisan group of Members came together to develop a consensus bill with broader ideological appeal. That group included TOM CARPER, DICK ARMEY, TIM JOHNSON, LYNN MARTIN, BILL FRENZEL, DAN GLICKMAN, and several other Members who were interested in a constructive approach with improved odds for enactment. In the 102d Congress, TOM CARPER reintroduced this proposal as H.R. 2164. He worked with JERRY SOLOMON, HARRIS FAWELL, and others in refining this bill before it was passed late last year with overwhelming bipartisan support, includ-

ing nearly unanimous support from Republicans. I am submitting for the record information that describes in detail the bipartisan support that this legislation has enjoyed in the past.

Turning now to more recent history, 2 months ago President Clinton outlined an ambitious plan to confront our massive Federal debt. The day after his State of the Union address, I introduced legislation on behalf of 80 of my colleagues to provide him with one of the tools he asked for to help in the effort to reduce the deficit—modified line-item veto authority.

The bill that we are discussing today, H.R. 1578, maintains the basic principle embodied in every expedited rescission bill in the past—that Congress must vote on Presidential rescission messages. Without weakening this basic principle in any way, we have made constructive changes to make the bill a more workable and effective tool in eliminating low-priority spending. The changes in the bill address concerns of Members on both sides of the aisle, including concerns raised by Mr. SOLOMON and Mr. CASTLE, as well as suggestions by the chairman and other members of the Government Operations Committee. I believe that any objective observer would conclude that these refinements have strengthened and improved the bill.

The legislation would allow the President to send down a rescission package within 3 days of signing an appropriations bill. Congress would be required to vote up or down on the package under an expedited procedure. The rescissions will take effect if a majority of Congress approves the rescission package. The funds for any proposed rescission would not be released for obligation until the rescission bill is defeated in either House. The bill would provide this new authority for a 2-year test period so that we can see how it works in practice and then revisit the issue with any improvements that might be helpful.

It is true that under the authority provided in the Constitution for each House to set its own rules, the House could adopt a rule that alters or waives requirements for internal congressional procedures, including those established by H.R. 1578. However, Congress could not thwart a Presidential rescission message by avoiding a vote because the President could continue to impound the funds included in a rescission message until Congress votes on his package.

Under current law, the President can and does impound funds included in Presidential rescission messages to prevent funds from being spent on projects that may be eliminated. The current rescission process requires the President to release the funds after 45 days even if Congress ignores the rescission message. By contrast, H.R. 1578 does not require that the President release the funds after a certain amount of time elapses, but instead provides that the funds must be released for obligation upon defeat of a rescission bill in either House. If Congress avoids a vote on the President's package, the President could continue to impound the funds. Unlike current law, Congress could not force the President to spend money by ignoring a rescission message. In effect, funds included in a rescission message would be frozen in the pipeline until Congress either votes to rescind them—and remove them from the pipeline entirely—or to release them for obligation.

The Spratt-Stenholm compromise makes four changes from the bill that was passed by the House last year with strong bipartisan support. First, it eliminates the restriction on how much an authorized program can be reduced. Incidentally, the limitation on how much the President can rescind was originally proposed by DICK ARMEY but has been criticized by the Wall Street Journal and GERALD SOLOMON. Unlike the bill that passed the House last year, and contrary to claims of a very shoddily researched Wall Street Journal editorial, there would be no limit on how much the President could rescind any program.

Second, we have added language providing for prompt judicial review if any Member challenges the constitutionality of the statute. This language is modeled after the Gramm-Rudman language.

Third, we added language ensuring that any rescissions submitted at the end of the 103d Congress would not die if Congress adjourned before acting.

Finally, we created a new road map for dealing with an Appropriations Committee alternative package of rescissions if the President's package is first defeated in the House. Under the bill that was passed last year, if the President's package was defeated, the process would have been over with no funds rescinded. The new language provides a procedure for the House to vote on an alternate list of rescissions even if the President's package is defeated. Furthermore, the new language gives the President a chance for a vote on his package in the Senate even if his package is defeated in the House. If the House adopts the committee's rescissions, the Senate still must vote up or down on the President's original package before considering any other rescissions. If there are differences between the House and Senate passed rescissions, the differences will be worked out in conference. In any event, no funds would be obligated unless and until Congress defeats the President's package under the procedures established by the bill.

Those are the changes that have been made to the bill. I have not heard anyone explain how those changes water down this bill. The changes make the bill stronger and more workable than the bill that was overwhelmingly passed by the House last year. It is stronger and more workable than some of the bills introduced by Mr. ARMEY and Mr. SOLOMON in the past.

This proposal was described last year by GERRY SOLOMON as "a tremendous compromise * * * that this House can support overwhelmingly on both sides of the aisle." I believe that statement to be even more true today. It provides the President with a real tool to ferret out questionable spending items while preserving the power of congressional majorities to control spending decisions.

The President may single out individual programs, but he must convince a majority of Congress to agree with him before the spending is cut. This bill will not change the balance of power between the branches, but it will increase the accountability of both branches in the budget process. The President would have to take the credit or the blame for rescinding items or not rescinding items. Likewise, Congress would have to go on record supporting or opposing individual items that the President wished to rescind and defend those votes back home.

I believe that this bill will be an effective tool to eliminate wasteful spending without disrupting the balance of power. To those of you who believe that this bill is not strong enough and those of you who believe that it is too strong, I would remind you that what we are proposing here is a 2-year test drive. If we find that this bill is too weak, we can address that when we renew the policy. Likewise, if it is too strong, we can make changes or let the procedure expire after trying it. We will only know for sure how well this bill will work after we try it.

I am submitting for the record a number of items which will be very valuable to Members evaluating this issue as well as to scholars who might be studying it. Included in this material are legal opinions from the American Law Division and answers to the most commonly asked questions about this issue.

The time has come for us to support this additional tool for accountability and fiscal responsibility. I urge your strong support of H.R. 1578 today.

Mr. CLINGER. Mr. Chairman, I yield 3 minutes to the gentleman from Oklahoma [Mr. ISTOOK], a Member who has been a leader in the fight for true line-item veto and the one who coined the phrase, "line-item voodoo."

Mr. ISTOOK. Mr. Chairman, I want to commend the gentleman from Texas [Mr. STENHOLM], my friend, for his candor in being careful to say that this is not line-item veto. This is what he calls modified line-item veto, what others call expedited rescission. Unfortunately, Mr. Chairman, there are too many of our colleagues, I say to the gentleman from Texas, who are putting a false label on this and are trying to tell the folks this is line-item veto, this is what the public has been wanting, this is what was an overwhelming campaign issue last year.

But it is false advertising. If the public had a chance to look under the hood on this particular piece of legislation, what would they find? I can guarantee, if they had a chance to look under the hood instead of just reading the sticker, they would not buy the product.

Here is the difference:

Under a true line-item veto bill, Mr. Chairman, the President gets a piece of legislation. It has pork in it. He takes out his pen, and he vetoes that pork, and, if Congress wants that spending to occur anyway, it must override the veto by a two-thirds margin. That is what the Castle-Solomon amendment will put in place, a two-thirds procedure.

However, under the bill we have before us, Mr. Chairman, the President gets a bill. It has pork in it. The first thing that Spratt-Stenholm says the President must do is take out that pen and sign the bill. He has just signed pork barrel spending into law.

Then it says he makes a separate list and, after he signed the bill, he makes a list of the things he did not like about it. That list comes back to the House and to the Senate, and, if Congress changes its mind, if a majority of the Members approve, then the spending does not happen.

Unless a majority of Congress can be put together to make the cuts, the cuts do not happen. There is no such thing as an override because there is no such thing as a veto. It is only a mechanism

for the President to send suggestions back to Congress and say, "Please make these cuts," but there is no power, there is no authority, there is no veto because after all, if Congress fails to approve those cuts, remember the President signed the bill.

The spending will occur. That is the difference between a real bill and a sham that people are being told is a line-item veto. Do you want to be arrested for false advertising, for calling this a line-item veto? That is not what it is. The Castle-Solomon amendment gives us the opportunity to adopt something that is genuine. But calling this thing a line-item veto is like the salesman that tells people. "Oh, this is genuine Naugahyde, made from the hides of real naugas."

Mr. Chairman, vote for Castle-Solomon, not for Spratt-Stenholm.

Mr. DERRICK. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Utah [Mr. ORTON].

Mr. ORTON. Mr. Chairman, let me just for a moment ask everyone to set aside partisanship and consider what it is we are attempting to do. The purpose of a line-item veto, or enhanced rescission, or whatever it is we want to call it, and I do not think the public cares what it is called, the purpose is to give the President the authority to identify items which we have included in a spending bill, in a budget, which he believes are unnecessary, to get us to take a look at those separately and determine whether or not we really want to spend that money. That is the purpose of it. That is the way you eliminate pork.

Mr. Chairman, the concept is not to shift the power of the purse from the Congress to the President; it is simply to be able to identify those items of bad spending and get rid of them.

By this bill, allowing the President to send us that list and make us vote on the record separately, if enough of us say yes, let us spend the money, then we ought to spend the money because we have the power of the purse under the Constitution.

But if we agree with the President and say this is bad spending, we ought not do it, then we agree and we pass the rescission request the President has sent. The power of this package is to force us to go on the record.

Mr. Chairman, many of my friends on this side of the aisle will say, "Wait a minute, I don't want to go on the record. I don't want to have this piece of spending put on the record under a spending vote, because if it goes under scrutiny, it won't be passed."

Mr. Chairman, I submit to you, drop the partisanship, look to the real purpose of what we trying to do, and pass this bill, because it is the best we are going to get.

I rise in support of H.R. 1578. I am a cosponsor of this legislation and strongly support the concept of expedited rescission authority.

The measure could, however, be improved. It could be made stronger.

I am disappointed that, having decided we wanted to have this safeguard, we watered it down. I would like to have seen the same line item veto principle applied to tax expenditures. There's pork in tax legislation that's just as fat, just as potbellied, as any appropriations bill around.

I would also like to have seen certain contract authority added to the bill. Look at any major authorization bill, and you can prac-

tically hear the barnyard noises where all those special interest sections granting contract authority are located.

I was prepared to offer two amendments, so that my colleagues would have an opportunity to express their views on extending the modified line item veto to tax expenditures and to contract authority. Under the rule, I cannot offer these amendments, but I urge my colleagues to consider how far we have fallen short if we enact controls only on appropriations and not on these other two ways of draining the budget.

Over the decades we have seen Congress try to put a lid on spending, only to see the lid blown because not enough safeguards were in place. Even Gramm-Rudman, whose threat of across-the-board cuts was supposed to sober Congress up, didn't have the effect it should have.

The reason it didn't have this effect is that by the time you are about to impose across-the-board cuts, the process has gotten out of control. The real safeguards have to be in dozens of places prior to the time you make those cuts. This modified line item veto is one of those places.

I would also like to give my colleagues a caveat about the substitute being offered by my Republican friends, Mr. CASTLE and Mr. SOLOMON.

There are two ways to implement a rescission. The first is to provide that the President send a rescission package to the legislature which will become effective only if Congress acts to approve it. This is, in effect, the procedure followed in H.R. 1578.

The second way is to provide that the President's rescission package will become effective unless it is disapproved by the Congress. This turns the normal procedure on its head and in my view raises serious constitutional issues. It upsets the separation of powers in a practical sense, even if it technically does not violate the Constitution.

The question is whether we are delegating excessive legislative power to the executive branch. If the congressional action following a rescission is by full action of the Congress, I have no problem. This is what H.R. 1578 does. Both Houses must approve the rescission package.

By contrast, the Republican substitute delegates to the President the authority to "enact," under some circumstances, revenue legislation without congressional action. This not only raises the issues of delegation of powers, but may also present a constitutional question of legislative veto under the Chada and New Haven cases decided by the Supreme Court.

Under H.R. 1578, the President has only proposing power, the opportunity to present rescission.

Under the substitute, we have a delegation of authority to the President to carry out a function normally reserved to this branch of government.

I urge my colleagues to support H.R. 1578.

Mr. DREIER. Mr. Chairman, I yield 2 minutes to the gentleman from Virginia [Mr. GOODLATTE], a hardworking member of the Committee on the Judiciary.

Mr. GOODLATTE. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, when I ran for Congress, I pledged to support a line-item veto for the next President of the United States, no matter whether that was George Bush, Bill Clinton, or Ross Perot, and I stand by that. That is why I am pleased today to rise in support of the Solomon-Castle line-item veto, the only line-item veto legislation that we will be voting on here today.

Mr. Chairman, I am pleased that the gentleman from Texas, the sponsor of this bill, has acknowledged that his legislation is not a line-item veto. The gentleman stated that a number of times when we debated this earlier, and it clearly is not.

A veto occurs when the Chambers of the Congress have to vote affirmatively to override the President when he singles out particular items and says that this is something that he thinks is wasteful. I think it is an excellent idea. I think it will help to eliminate pork barrel legislation, and I think it will help to change the way this body does business.

But if we vote for the enhanced rescission and do not have a line-item veto, we are not going to be giving the President what he asked for.

Mr. Chairman, if you want to talk the talk, you have got to walk the walk. So I would encourage my colleagues on the other side of the aisle to join us in supporting the Solomon-Castle line-item veto and give the President something that is real, something that does some good, and that will be valued by the people of this country who expect this Congress to give the President a real line-item veto.

Mr. DERRICK. Mr. Chairman, I yield 2½ minutes to the distinguished gentleman from California [Mr. HAMBURG].

Mr. HAMBURG. Mr. Chairman, I rise in strong opposition to H.R. 1578, the enhanced rescission proposal. While I respect my President and my colleagues who favor this concept, I believe it is misguided and a gimmick which will not reduce the deficit and which will potentially cause great harm to our democracy.

Like many of my freshman colleagues, I ran on a reform platform. I called for a Congress that would reform America by reforming a health care system that leaves tens of millions of Americans without access. I called for a Congress that would reform our inequitable tax system which for the last 12 years has rewarded the rich and robbed the middle class. I called for a Congress which would be honest to Americans about our budget problems and how to solve them. Mr. Chairman, this bill is not reform and is not an honest attempt to solve our problems.

Mr. Chairman, President Clinton has offered a real deficit reduction plan. The Congress recently finished action on a budget resolution implementing the President's proposals. This budget resolution cuts the deficit by over \$496 billion over the next 5 years. Mr. Chairman, that deficit reduction is not a gimmick.

The President will soon offer a health care reform package which will address the skyrocketing costs of health care—costs which contribute billions of dollars to our budget deficit each year. We in this body will have an opportunity—and a responsibility—to shape that health care reform package to ensure that it not only covers all Americans but gets Government spending on health care under control. Mr. Chairman, health care reform is not a gimmick.

Mr. Chairman, this bill is a gimmick. This bill could never generate the substantial savings produced by the budget resolution or meaningful health care reform. That is because this bill does not affect the parts of the budget which are driving the deficit. In fact, Congress has over the past 12 years consistently appropriated less funds than requested by Republican Presidents in their budget submissions.

Mr. Chairman, let us be honest. Enhanced rescission is a gimmick. It is our way of pretending to the country that we are reforming ourselves. It is playing into the hands of the naysayers and the cynics. Now is the time for us to seize our power as the people's representatives and not give our power away to the executive branch in a dangerous precedent of shaky constitutional merit.

This house is the people's house and we need to be honest with the people. We can and should on our own do the tough job of balancing our books without resorting to gimmicks. I urge my Democratic colleagues to reject this blatant attempt to deceive the American public.

The CHAIRMAN. The Chair announces that the gentleman from South Carolina [Mr. DERRICK] has 2½ minutes remaining, the gentleman from California [Mr. DREIER] has 3 minutes remaining, the gentleman from South Carolina [Mr. SPRATT] has 5 minutes remaining, and the gentleman from Pennsylvania [Mr. CLINGER] has 6½ minutes remaining.

Mr. DREIER. Mr. Chairman, I yield 2½ minutes of the time of the gentleman from Pennsylvania [Mr. CLINGER] to my friend, the distinguished gentleman from California [Mr. KIM], a hardworking member of the Committee on Public Works and Transportation and former mayor of the city of Diamond Bar.

The CHAIRMAN. Without objection, the gentleman may proceed. There was no objection.

Mr. KIM. Mr. Chairman, I rise in strong opposition to the Expedited Rescission Act and in support of the Castle-Solomon amendment to give the President a real line-item veto.

President Clinton campaigned for a line-item veto. I join the American people in wanting to give it to him. Right here, right now. Today.

But the majority Members in this House stand in opposition to President Clinton's reasonable request. Instead, they try to offer him a fake substitute. It is ironic. It is a shame and an insult to the American taxpayer. Because the line-item veto will give President Clinton the chance to eliminate pork and wasteful spending.

It is a key weapon in the fight against deficit spending. I strongly support the true line-item veto. But for the line-item veto to work, it must have real power.

The key difference between this so-called Expedited Rescission Act and the Castle-Solomon amendment is that under the so-called Expedited Rescission Act, it only takes one-half of one Chamber of Congress to kill the President's spending cuts. That is nothing. A simple majority can override the President's line-item veto. The Democrats already have that majority. It is a sham. The real power still lies with this fiscally irresponsible Congress, not the President.

It is very clear that this Congress is playing games with the people, and has no intent to really eliminate pork barrel spending.

On the other hand, the Castle-Solomon amendment requires a two-thirds vote of both Houses to override the line-item veto. It means the cuts really will happen.

Not only that, unlike the Expedited Rescission Act, this amendment prohibits the addition of any new spending during the process. Americans are not stupid. They know that actions speak louder than words. The Castle-Solomon amendment is real, honest budget reform action. This Expedited Rescission Act is nothing more than deception and rhetoric that protects the big spenders and special interests.

It makes the public think the President has a big ax when Congress has only given him a flimsy plastic knife. It is nothing more than tax and spend, business as usual.

The American public deserves better. I urge the adoption of the Castle-Solomon amendment—the real line-item veto.

Mr. SPRATT. Mr. Chairman, I yield 1 minute to the gentleman from Florida [Mr. DEUTSCH].

Mr. DEUTSCH. Mr. Chairman, what we have seen over the last 15 years, we have seen a Federal Government that has spending out of control. I do not believe that this Congress, had it chosen to get this country \$4 trillion into debt, would have been able to accomplish that goal, yet that is where we are today.

I think what we need to think about, as a country, is where we would be in terms of our economy if we were not \$4 trillion in debt. Where would we be if we were not at a \$300 billion deficit?

The incredible force of this country, in terms of the future, would be unbelievable, beyond our wildest dreams.

Our economy is suffering the cancer. The cancer exists. But the cancer of this deficit is also affecting our national security.

As Admiral Crowe, the former Chief of Staff of our armed services, has pointed out recently, national security is more than armies. It is our economy as well.

This legislation has the ability to be part of the effort both to have the economy as vibrant as our wildest imagination and really restore a level of national security that this country can only have as the strongest economy in the world.

Mr. DREIER. Mr. Chairman, I am happy to yield 2 minutes to a new member of the Committee on Ways and Means, the gentleman from Marysville, CA, Mr. HERGER. The gentleman has been working diligently on that committee, I know, because he missed another meeting that I had earlier today because of his work there.

PARLIAMENTARY INQUIRY

Mr. DERRICK. Mr. Chairman, I have a parliamentary inquiry. The CHAIRMAN. The gentleman will state it.

Mr. DERRICK. Mr. Chairman, just as a matter of curiosity, do these introductions go into the time of the opposing side? I have no objection. I am just curious.

The CHAIRMAN. The answer to the question is: Yes, they do, where they constitute debate.

Mr. HERGER. Mr. Chairman, let us stop defrauding the American public. The so-called Expedited Rescission Act is an outrageous fraud. It will not result in any savings for the Government.

It is not remotely like the line-item veto the Governors of some 43 States have.

We need some truth in advertising here. Under this legislation, it will not be any harder to pad the budget with pork than it already is. Let us tell it like it is—the only purpose of this bill is simply cover for Members who wanted to increase the debt limit and add another \$1 trillion to our national debt. We are looking at a fig leaf, not real reform.

Only a real line-item veto will actually put the breaks on congressional overspending when it takes two-thirds of the vote to restore funding for the fish atlas or the beach parking garage or the study of religion in Sicily, then maybe we will finally begin to cut wasteful Federal spending.

Let us not play games with the American public. Let us reject this meaningless proposal. Instead, let us enact the real line-item veto, the Castle-Solomon substitute and put an end to special interest porkbarrel spending.

Mr. CLINGER. Mr. Chairman, may I inquire how much time all the parties have left and who closes?

The CHAIRMAN. The gentlemen representing the Committee on Government Operations each have 4 minutes. The gentleman from South Carolina [Mr. DERRICK] closes. He has 2½ minutes remaining. The gentleman from California [Mr. DREIER] has 1 minute remaining.

Mr. CLINGER. Mr. Chairman, I reserve the balance of my time.

Mr. SPRATT. Mr. Chairman, I yield myself 30 seconds.

I want to respond to the last speaker who described this bill as an outrageous fraud. I would remind my good friend, the gentleman from California [Mr. HERGER], that we voted upon a very similar piece of legislation, enhanced or expedited rescission, on October 3, 1992. And according to the CONGRESSIONAL RECORD, he voted for that bill, the bill that is before us right now.

Mr. Chairman, I yield 1½ minutes to the gentleman from Ohio [Mr. FINGERHUT].

Mr. FINGERHUT. Mr. Chairman, I thank the gentleman from South Carolina [Mr. SPRATT] not only for yielding time to me but also for his hard work on this legislation.

I join with him in taking some exception to the previous statements about the nature of this bill.

Mr. Chairman, the American people are smarter than we give them credit for. They understand that in a legislative body as diverse as the U.S. House of Representatives, coming from all States in the Union, that there are legitimate differences of opinion on how we ought to proceed. And sometimes we have to make compromises in order to achieve a result.

Mr. Chairman, the American people are also fed up. Yes, they are fed up with fiscal irresponsibility and they demand action, but more importantly, they are fed up with inaction. And they are fed up with partisanship.

So let us be honest about what is happening on the floor today. The Castle-Solomon amendment is a good amendment. In fact, I intend to support it. But I cannot help but note how many Members who have stood here today and called it the real line-item veto just

an hour ago voted against our opportunity to consider that very measure this afternoon.

The Spratt-Stenholm amendment is also a good measure. It moves us forward in the realm of fiscal responsibility.

It will force Congress to reconsider spending in the glare of the spotlight, in the light of day, and to decide whether, in fact, this is spending that we need to have in this country.

It has one additional virtue, and that is, it can pass.

So my colleagues may vote how they want on the Castle-Solomon amendment, but vote for this bill because it will move us forward in a unified way for this country.

Mr. CLINGER. Mr. Chairman, I would ask if the gentleman from South Carolina has additional speakers.

Mr. SPRATT. Mr. Chairman, I would respond to the gentleman by saying that I have one additional request, and the gentleman from South Carolina [Mr. DERRICK] has 2½ minutes to close.

Mr. Chairman, I yield 2 minutes to the gentleman from New Jersey [Mr. PALLONE].

Mr. PALLONE. Mr. Chairman, I just want to stress today that this is not a gimmick. This is a very important step, in my opinion, towards reforming the spending process in Congress.

Mr. Chairman, I want to commend the gentleman from South Carolina [Mr. SPRATT] and the gentleman from Texas [Mr. STENHOLM] for this compromise bill. I have felt for a very long time that we need some procedural changes in the way we do business with spending, with the budget process. I think that this is the beginning, maybe a small step, but the beginning of the process of changing the way we do business. I honestly believe that if we can get expedited rescission authority, that ultimately we will also see a balanced budget amendment and some of the other changes that can be put into place for spending reform.

I think the most important thing is not to make the distinction so much between the Spratt-Stenholm compromise and also the proposal by Mr. CASTLE, and also Mr. SOLOMON, which I will also support, but just to stress that whatever we do, either one of these proposals will ultimately mean that a lot of spending items will see the light of day, be brought to the public eye through the President's action, and that for once will make it more difficult, I believe, for items which are labeled pork barrel or for special interests that will ultimately not be signed into law and not become law and not be appropriated.

I want to indicate again my strong support for the Spratt-Stenholm compromise, although I will also be voting for the Solomon amendment. I believe if we saw the Spratt-Stenholm compromise signed into law, that that will be a far-reaching attempt toward reforming the spending process and making some significant changes in the way we do business.

Mr. CLINGER. Mr. Chairman, I yield myself the balance of my time.

The CHAIRMAN. The gentleman from Pennsylvania [Mr. CLINGER] is recognized for 4 minutes.

Mr. CLINGER. Mr. Chairman, just to make myself clear on a point which was raised earlier in the debate, we have heard allusion to the amount of money that the President's budget is going

to save, the amount of deficit reduction that will take place over the next 4 or 5 years.

However, I would point out that the majority of that, the cost cuts, the cuts in spending, take place in the out-years; that is, in the third, fourth, and fifth years of that budget. That is when the line-item veto is going to be absolutely essential to a President to curb the appetites of what we all know in this body are voracious for spending.

Without a line-item veto during those outyears, when those spending cuts may winnow away in the legislative process, without having the line-item veto at that point, we are going to find ourselves back in the same old soup again with passing appropriations that are going to exceed what the budget calls for.

This appropriation, the bill that we are going to be voting on tomorrow, expires at the end of 2 years. Therefore, at the very time when it would be needed most it will no longer be on the books, will no longer be a restraint on spending, and will no longer be of help to us.

The other point is, of course, a partisan one. That is that it is clear that the majority does not trust a Republican President with a line-item veto, because otherwise they would be willing to extend it and say that a line-item veto should be available no matter who is in the Presidency.

I am delighted that we have now at least more support on the majority side for a line-item veto, because many of them, none of them, were willing to support that provision, or few of them were willing to support that provision in the last administration.

Mr. Chairman, I would urge a vote for the Castle-Solomon substitute which will be offered tomorrow as the true version of line item, which will give us the kind of restraint we so desperately need.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The gentleman from California [Mr. DREIER] has 1 minute remaining.

Mr. DREIER. Mr. Chairman, without a flowery introduction, I yield myself the balance of my time.

Mr. Chairman, 80 percent of the American people have said in public opinion polls that they support the line-item veto, a true line-item veto. When we look at the veto authority in the Constitution, it relates to a two-thirds vote. That is what they want. I am pleased, too, that the gentleman from Texas [Mr. STENHOLM] has recognized that we are going to have a choice.

Mr. Chairman, our colleagues need to know that tomorrow we are going to have a chance to vote on the Castle-Solomon package. That is what the American people want us to do.

As a member of the committee that is working to try and reform the Congress, I hope very much that the statement that was in the Wall Street Journal's editorial this morning is not a precursor when they said, "The push to replace the line-item veto with a sham substitute is typical of how Congress is dealing with reform in this session, it is faking it."

I hope very much that we don't pass what the Journal refers to as a sham substitute. Let us do what the American people want,

and that is, vote yes on the Castle-Solomon substitute when that comes before us tomorrow.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The gentleman from South Carolina [Mr. DERRICK] is recognized for 2½ minutes to close debate.

Mr. DERRICK. Mr. Chairman, I yield myself the balance of the time.

Mr. Chairman, the line-item veto is very important to many Americans. The polls have indicated over the years that most Americans, a large majority of them, support it. I support it and have supported it for many years.

We have a line-item veto bill before us today. We can argue about this and that, but the fact of the matter is that most of the Members who have spoken here on the other side, or at least some of them, supported a very similar bill before the House last year that passed, and was bogged down in the Senate and never became law.

It is my hope that we will pass this and it will go to the Senate and it will pass there, and the President will sign it. I hope it will help bring some sort of fiscal sanity to our Government. I think it is a good bill. But I also want to say, and I do not think that we fool many people up here, that there are only two ways to balance a budget. We either take in more money or we spend less.

I have been in this body for a number of years and I have seen the original Budget Act, I have seen Gramm-Rudman-Hollings, I have seen balanced budget amendments, and all these sorts of things.

Of course, I am not suggesting the people who introduced them did not have good intentions, but they are the classic example, as this is, of the way politicians try to work out some gimmick so they will not have to make the hard decisions. They can remove it from themselves in some way, so they will not have to vote against an appropriation or vote for a tax increase or something else.

I will tell the Members that in my legislative career, which has spanned 25 years, I have never seen it work. It has never worked, and it is not going to work here today. The history of the line-item veto is that those who have it very seldom use it, and when they do use it, they use it for entirely different purposes than those that have been suggested here tonight. They use it not to reduce deficits, not to reduce spending, but instead to accomplish their own purposes.

Let us vote for it, let us pass it, but let us not mislead the people to think it is going to balance the budget overnight, because it will not. We are the ones who have that power, and no one else.

DEBATE ON ENHANCED RESCISSION AUTHORITY

Mr. PALLONE. Mr. Chairman, I rise today to address the issue of enhanced rescission authority. Taxpayers want their elected officials in Washington to stop playing games and get something done about the economy. The Expedited Rescissions Act, H.R. 1578 is the first step in the right direction.

Republican for years have been a strong advocate for this form of legislation. True it is not a pure line-item veto, however, it moves us in the right direction, the direction of reform. The Castle-

Solomon substitute may be truer in form. However it may not have the votes to pass. The National Taxpayers Union and my fellow members of the CDF see the Stenholm-Spratt amendment as a viable option. What I'm saying to the Republicans is, here's something that has a real chance of passing, something that will make a difference in the budget process, and something we should agree on.

Today I challenge the Republicans to join with the Democratic majority in support of this significant budgetary procedural reform. I challenge Republicans to rise above partisanship and obstructionist tactics to enact a proposal that they themselves have for years been calling for. I hope they won't block this just for the sake of making the Democrats look bad, or because they don't want to give a Democratic President any support. That's just the same kind of gridlock that people are saying they won't tolerate anymore.

True, Stenholm-Spratt is a compromise proposal. But it's something that will work, and it's within reach. Like many of the Republicans, I have stood for a much stronger line-item veto and I will vote for the Castle-Solomon amendment. But that proposal is not likely to be enacted any time soon, while the modified line-item veto has a real chance of passing. And the truth is, with some division in the Democratic ranks, we need courageous Republicans to cross party lines in the interest of breaking the gridlock.

Mrs. COLLINS of Illinois. Mr. Chairman, I rise today in opposition to H.R. 1578, the Expedited Rescissions Act. H.R. 1578 was supposedly crafted to reduce our \$319 billion deficit while still maintaining the balance of power between the executive and legislative branches of this Government. Unfortunately, it fails to achieve either of its goals.

The rescission authority that H.R. 1578 seeks to expedite already exists and has been regularly exercised by the President as well as Congress since it became law in 1974. In fact, under the last administration, President Bush requested \$7.9 million in rescissions and Congress enacted a total of \$8.2 million in rescission savings. During the 19-year history of the rescission authority, Congress has used this budget-reduction tool to either approve or initiate a total of \$86.5 billion in savings.

Considering that H.R. 1578 simply expedites a budget rescission authority that already exists and is used successfully, the effect that this legislation is likely to have on the deficit or our \$4 trillion debt is limited. We therefore need to seriously consider the risk that this bill poses to the carefully established balance between the White House and Congress and question the worth of that risk. For me, the minimal benefits of an expedited rescission authority simply do not outweigh the magnitude of altering the relationship between the executive and legislative branches. I am compelled to oppose this legislation and I urge my colleagues to join me and vote against H.R. 1578.

Mr. STOKES. Mr. Chairman, I rise today to express my strong opposition to H.R. 1578, the Expedited Rescissions Act. This legislation is not only unwise and unsound policy, but more importantly, it is almost certainly unconstitutional.

Let me take a moment to discuss a little history for some of the junior Members of the House. As you may know, the Congressional Budget and Impoundment Control Act of 1974, which created the

Budget Committee and the entire budget process, established a procedure for the President to suggest to Congress proposed rescissions at any time throughout the year. The act, recognizing that the Constitution grants the power of the purse to the Congress, specified that if the House and Senate have not approved a proposed rescission within 45 days of its submission, the funds are automatically released.

The existing rescission procedures have worked very well. In fact, and this may shock some Members on the other side of the aisle, Congress has rescinded \$17 billion more than the President has requested be rescinded since the passage of the Budget Impoundment Control Act of 1974.

The Expedited Rescissions Act would temporarily establish a new process for consideration of presidential rescission proposals by Congress. This bill seems simple enough on the surface—the House of Representatives must vote within 10 days on proposals submitted by the President to rescind appropriations. More specifically, the House must vote on the President's proposal, without amendment, and the rescissions would go into effect upon approval by both Houses of Congress.

The Expedited Rescissions Act, however, would have the effect of transferring power from the legislative branch to the executive branch, without benefit of constitutional amendment, and weakening Congress' inherent constitutional power of the purse. In effect, H.R. 1578 would grant the President added power to write appropriations bills because, using the veto threat, he could insist on rescissions of various congressional proposals before the bill even reached him. Another important point is that this enhanced rescission process would not—even remotely—have a major impact on the deficit, because the legislation does not cover the authorizing committee's areas of jurisdiction, including contract authority and tax provisions.

I want to remind my colleagues that the Constitution grants the President an enormous amount of power. The President, in practice, already has two opportunities to significantly influence the spending process, through the submission of an annual budget request, which is closely followed by the appropriations committees, and through the power of the veto, which former President Bush used to his advantage on a number of occasions. The Constitution, in article I, section 8, mandates that Congress exercise the authority and responsibility of raising revenues and appropriating funds.

Mr. Chairman, serving on the Appropriations Committee is an arduous, time-consuming, and difficult task. The Appropriations Committee, and its various subcommittees, spend almost every legislative day, for approximately 3 months of the year, conducting hearings with executive branch officials, and members of the general public, and marking-up the spending bills. There is an enormous amount of responsibility that goes with membership on the Appropriations Committee, and many hours go into making the tough, and always unpopular decisions to provide funds for one Federal program to the exclusion of funds for another worthwhile program. These decisions are never easy, and in recent years, have become even more painful. To allow the President to void all this work, and to reject with impunity the judgment of the elected rep-

representatives sent to Congress by the American people, is terribly wrong.

Mr. Chairman, I cannot state strongly enough my serious objections to this legislation. It is unwise policy, an unjust usurpation of congressional powers, and is in violation of the Constitution. I strongly urge all my colleagues to vote against H.R. 1578, and reject this enhanced rescissions procedure.

Ms. WOOLSEY. Mr. Chairman, I rise today in strong opposition to H.R. 1578, the Expedited Rescissions Act. I wholeheartedly agree that we as a Congress must tackle the problems of the national debt and the budget deficits, but passing the buck is not the answer.

While I trust our current President, past Presidents have not always exercised such good judgement. I am concerned that if this legislation is passed, important funds may be held hostage by a President who is searching for support on another project—or a second-term President who isn't accountable to the public because he/she will not run again. I believe that these are the concerns that our founders had in mind when they structured our current political system. Mr. Speaker, I believe that no one person should have so much power over a \$1.5 trillion budget.

As we look at ways to reduce the deficit, there is no doubt that Congress must make difficult choices about where the Federal Government should, and shouldn't, be spending money. I believe that we must accept these challenges and make those decisions. Passing the buck is not the answer. Let's put an end to earmarking projects that aren't making real investments in our future. Let's stop spending money on projects that haven't undergone review by the authorizing committees. Why are we asking the President to do our job for us?

As a member of the Budget Committee, I played a role in developing the budget agreement recently passed by Congress. I am pleased that this budget fundamentally reorders our Nation's priorities and that it sets strict spending limits for the next 5 years. We made difficult, but responsible, decisions about where money could be cut, and I look forward to working with the authorizing and appropriating committees as specific decisions are made.

As a former small business owner, I know first hand the importance of making critical management and budget decisions that will benefit a company and its employees. As a member of the Petaluma City Council, I worked hard with my colleagues to make decisions about how the city would spend its limited resources. Never did I run from that responsibility, and I certainly don't plan to start now.

Let's show the American people that business as usual in Washington is old news, and that we are going to make the difficult decisions that we were sent here to make. I urge my colleagues to oppose H.R. 1578.

Mr. DORNAN. Mr. Chairman, today we're discussing the rarely broached topic of true budgetary reform. This is a subject that is very close to my heart. I am the only Member of the House of Representatives to have introduced legislation on enhanced rescission authority in every Congress since 1985. I remember when myself and perhaps only one other Member had the only rescission bills

in the House. Today it seems everybody has their own version. You don't know how pleased I am to see not only how my idea has finally caught on in this body, but that the American people will finally get to hear debate on this important budget-cutting tool.

Paramount to any talk of budgetary reform has to be a discussion about congressional accountability. Getting a grip on our massive and increasing Federal budget deficit won't be possible as long as Congress continues to diffuse blame for our fiscal situation. It has become a yearly ritual for the Democrats in Congress to shift the blame onto the shoulders of the executive branch. We'll see if they continue to do that with a Democrat in the White House. But nevertheless, this disingenuous practice must end. If we are to be serious about reform, we must be truthful about Congress' leading role in the budget mess.

And if you don't think accountability is the problem, just ask the voters. They just elected the largest freshman class in years. While the Democrat freshmen have decided to play ball with their leadership, Republican freshmen have been steadfast over the last few months in pushing for true reform of the way Congress conducts its business—only to be thwarted at almost every juncture by the calcified majoritarian Democrats that run this Congress. Americans feel disenfranchised and ineffectual in the ways of their representative Government. We need real reform.

Mr. Chairman, the two legislative weapons that would most help to both check Congress' spending habits and introduce accountability for its spending decisions are the constitutional amendment to balance the Federal budget and an enhanced Presidential budget rescission authority. Maybe now that we have come to the point where we are willing to debate enhanced rescission, it is time to give the balanced budget amendment another look, considering the close defeat it suffered last summer.

But as I said, I have long advocated a Presidential check on Federal spending. The fact that the President is now a Democrat doesn't change my feelings on this one bit. As early as this past February, I testified before the Joint Committee on the Organization of Congress on my enhanced rescission bill, which I reintroduced in the 103d Congress as H.R. 666.

As you know, under current law, the President can ask Congress to rescind funds for which he does not anticipate a need. But rescissions expire and funds are released unless both Houses of Congress pass a bill specifically approving the rescissions within 45 days. In short, if Congress simply does nothing, the funds must be spent. Today's bill is no improvement. H.R. 1578, the Stenholm-Spratt Expedited Rescission Act, also only requires congressional approval of the President's rescissions. In fact, the Democrats have admitted that this bill is unenforceable, as the process it establishes would be subject to the same occurrence of being waived, suspended, altered, or otherwise circumvented by the Rules Committee as current law. It is meant only as a strong suggestion from the President to appropriators to find deeper cuts, and is powerless as a budget-cutting tool.

H.R. 24, the Castle-Solomon Republican substitute, on the other hand, closely resembles my own bill on rescission authority, amending the Impoundment Control Act of 1974 to provide that

any rescission of budget authority proposed by the President would take effect unless specifically disapproved by the adoption of a congressional joint resolution within 20 legislative days. The President would then have 10 legislative days to sign this resolution. Thus, if the Congress refused to act on a Presidential rescission request, for whatever reason, the designated funds would not be spent. This fair, but tough budget-cutting measure is referred to, curiously, by some of my Democrat colleagues as an unwarranted intrusion into the affairs of the legislative branch.

The Castle-Solomon substitute would simply reverse the bias in the current system away from spending money and toward saving it. It requires Congress to act to disapprove rescission, in accordance with the legislative process, rather than rejecting savings by inaction. This is very similar to the original House-passed Impoundment Control Act, which permitted Presidential rescissions unless one legislative Chamber terminated the impoundment within a 60-day period. Castle-Solomon merely shortens the disapproval period to 20 days and corrects, as does my own bill, the constitutional problems arising from the Supreme Court's *Chadha* decision, which addressed the constitutionality of the legislative veto.

This is the most important benefit enhanced rescission has over a straight line-item veto approach—it addresses the legitimate constitutional questions involved. In fact, according to the Library of Congress, enhanced rescission on this model—indeed, the Dornan model—is constitutional and conforms to Supreme Court doctrine on the legislative veto. The lack of such a constitutional clean bill of health is specifically why I have not cosponsored line-item veto legislation.

Enhanced rescission authority will be more effective in getting at Government waste. It may be an obvious point, but for the line-item veto to work there has to be a line item to veto. But as you and I know, Mr. Chairman, the specific items that would most likely be targets of the line-item veto are never found in individual appropriations bills, but in conference reports. The only way around this problem is to insert the conference reports in the appropriations bills—and I think we can safely assume that this is unlikely. On the other hand, to propose a rescission, the President must submit one or more rescission messages to Congress, specifying the amount of budget authority he wishes to cut, the account, agency, functions, and programs affected, the reasons for the rescission, and the overall effect. In short, the President would have more flexibility.

Mr. Chairman, there is a clear need to bring balance into the budget process by giving the President a greater role. Impoundments of one sort or another have been used to good effect by Presidents since the Jefferson administration to control Government spending. Presidents Truman, Eisenhower, and Kennedy all used their impoundment power to control Government spending. And in 1966, President Johnson impounded \$5.3 billion to offset costs associated with the Vietnam war.

But with the passage of the Impoundment Act in 1974—a gut reaction on the part of Congress against former President Nixon and then President Ford—which took away the executive branch's impoundment power and set up the current rescission process, there

has been a steady trend away from approving any Presidential rescission. Since 1974, Congress has constantly ignored Presidential rescission requests. Political pressure forced Congress to act last year on the President's \$7.9 billion rescission request, but the \$8.2 billion that Congress rescinded was an aberration. Before that, Congress had accepted only \$402 million, or 1.2 percent, of the \$33.4 billion in Presidential rescissions requested since 1983. Clearly some sort of impoundment authority for the President is in order. Despite his presiding over the largest budget in the world, the President has less control than any corporate CEO or the Governor in any of 43 States. Enhanced rescission authority would allow the President to have the same power a CEO has to ask his board of directors, in this case Congress, "Is this specific expenditure really necessary?"

Some opponents of enhanced rescission point to the GAO comparison of Presidential rescission requests and congressional action on rescissions which appears to show that Congress actually rescinded more money than the President requested from 1981 through February 1992. But GAO's formula includes, among other questionable entries, money Congress rescinded that could not have been spent. For example, if Congress appropriated \$100 million to build an airport, and the airport only cost \$80 million to build, that would leave \$20 million that could be spent for no other purpose. The GAO says that Congress rescinding that \$20 million so it could be spent elsewhere is a legitimate rescission. Technically, that may be a rescission, but it doesn't save any money.

Enhancing the President's rescission authority addresses one of the major problems with the modern Congress—its tendency to circumvent the democratic process, especially when appropriating. We spend money on projects that have never been authorized or even the subject of a hearing in an authorization committee. Appropriations that never appeared in a bill are added in conference. Appropriations with no meaningful relationship to the underlying bill are added in the dead of night. We hastily pass catch-all appropriations or continuing resolutions. It is only natural that a Member has a strong preference to see funds directed to his or her constituency—some more so than others, I am sure. But the sum of all the numerous favors and deals of 435 Congressmen and 100 Senators can work against our Nation's overall interest.

The President being elected by all of the people, has a better vision of what is good for the Nation as a whole. When these two visions collide, I believe the Nation's needs must come first and that the President, whether Democrat or Republican, is in the best position to make that determination. And somewhere along the way, the Congress should be required to speak on these issues.

It is important to note that I am under no illusion that enhanced rescission will solve the deficit crisis and bring the budget into balance. It would likely apply to only a small part of the budget and realistically we could only expect savings of maybe several billion dollars a year. Indeed, a GAO study stated that if Presidents Bush and Reagan had had the line-item veto from 1984 to 1989, savings would have been at least \$70 billion, and given the generous assumptions used by GAO, actual amounts would probably have been far lower. But this is not to say that I belittle saving the taxpayers

several billion dollars a year. I am one of those few here, Mr. Chairman, who still thinks a billion dollars is a lot of money. But it will take a lot more than that to balance the budget. What it will take to dig us out of our budget hole is a combination of reforms, including a balanced budget amendment with a tax limitation feature, a flexible spending freeze, budgetary process reform, and entitlement reform.

Some might say that an enhanced rescission authority would make Congress even less responsible. I have heard a few Democrats who oppose this change argue the truly cynical point that enhanced rescission authority would actually increase the deficit by giving Congress the incentive to present larger budgets to protect against the Presidential power to rescind. Mr. Chairman, this is truly an insightful look at what many of the House's majoritarian Democrats view as their role in our representative Government—big spenders of pork. But we have had almost 200 years of experience with Presidential impoundment and did not experience such problems. A 1987–88 study on the line-item veto at the State level concluded that expenditures were lower in those States with the line-item veto. Those 10 States that have special line-item authority, which allows a Governor to reduce dollar amounts rather than zeroing an appropriation out completely—enhanced rescission would allow for this—saw spending average 14 percent lower than in the States with no line-item veto authority.

Mr. Chairman, it is paramount that we adopt a Presidential check on spending to restore accountability to the spending process. And if we get some spending relief in the process, then so much the better. We have created a culture of perpetually increasing spending. We need to rein it in.

Mr. Chairman, it is clear that we, as a body, have not done enough to deal with our Nation's mounting budget deficit. Our true crisis is the uncontrolled propensity to spend and waste Federal tax dollars. Unless we are willing to hold ourselves accountable for our own actions, and remain accountable to the American people, we will be shirking our constitutional duty to secure the blessings of liberty to ourselves and our posterity, meaning our children and our grandchildren. Mr. Chairman, you may know that I have recently helped to establish a grandparents caucus here in the House as a reminder to those of us who have grandchildren exactly why we fight so hard in this body on the various issues we face. As a Member of Congress, I do not want my legacy to my grandchildren to be irreconcilable debt and an entrenched, unresponsive political bureaucracy. It is bad enough that Congress systematically attempts to erode the moral underpinnings of our legal code. Mr. Chairman, we must leave our grandchildren more than a bill.

Accountability should be the order of our reform. By destroying our competitiveness and cheapening the legacy we leave to future generations, we prove ourselves ineffective, and more disturbingly, possibly incompetent in dealing with the true problems of our Nation. We must return our Federal Government to the citizens of this country, and place it back on a track of fiscal responsibility. The decisions we make will profoundly influence the way Congress conducts its business in the coming century. True reform is not merely for the sake of change. Change, as envisioned by our Presi-

dent is not what is needed. Rather, a fundamental reorganization of Congress' role in governing the Nation is in order. I, for one, am proud of my own role in this process, and I am pleased to finally see my colleagues climb aboard a good idea.

Mr. Chairman, it is for these reasons that I urge my fellow members to support the Castle-Solomon substitute on enhanced rescission authority, and institute real reform of the budget process. I also urge my colleagues to support the Michel amendment, which would apply the same principle to the various tax breaks that the Congress likes to dole out to their favorite special interests. We need both these reforms if we are to finally bring some accountability back to the process.

Vote "yes" on Castle-Solomon and "yes" on Michel. If they fail, vote "no" on Stenholm-Spratt.

Mr. CONYERS. Mr. Chairman, today, the House considered House Resolution 149, the rule for the consideration of H.R. 1578, legislation to provide expedited rescission authority for the President.

The Rules and Government Operations Committees have worked together for some time to bring to the floor, legislation to permit the expedited consideration of Presidential rescissions. The Rules Committee is to be commended for their fine work in crafting a rule which carefully balances diverging interests and permits the consideration of H.R. 1578 and several amendments.

Earlier this year, I wrote Chairman MOAKLEY regarding this legislation, urging that he and his committee make all germane amendments in order under the rule. The chairman has done the House one better, offering a special waiver to permit the consideration of the amendment of Minority Leader MICHEL, to extend rescission authority to revenue measures.

I want to clarify that I do not support the minority leader's amendment. I am concerned that the extension of rescission authority to revenue measures will serve as a poison pill, destroying the limited nature of this expedited rescission proposal. In the event that Congress wishes to pursue this tax rescission option, Congress will have the opportunity to review the issue following the 2-year trial run of this expedited rescission process. While I do not support the minority leader's amendment, the House, today, will have the opportunity to consider the merits of this proposal.

Earlier, the Government Operations Committee, Legislation Subcommittee held a wide ranging hearing on expedited rescission. During this hearing, our former colleague, OMB Director Leon Panetta, repeated the administration's call for the adoption of expedited rescission authority. Since the hearing, the Committee on Government Operations and Congressman JOHN SPRATT have worked diligently with the administration and OMB, the majority leader, the Rules Committee and other committed Members of Congress to prepare this legislation for the floor.

All of us are committed to eliminating wasteful and unproductive Federal spending. The Government Operations Committee has vigorously exercised its oversight function, to address fraud, waste, and mismanagement throughout the Federal Government. However, I am more troubled by untested and potentially damaging al-

ternatives to the careful expansion of existing rescission authority represented by H.R. 1578.

I am also concerned by the potential for abuse and many of the criticisms you will hear today reflect apprehension fueled by administrative abuses of the 1970's. The Impoundment Control Act was adopted in response to the administration's misuse of impoundment to unilaterally and indefinitely cancel spending for selected programs. Consequently, this expedited rescission authority provides for a careful expansion of Presidential rescission authority for a limited trial run and the authority expires 2 years after enactment.

H.R. 1578 represents a modest effort to create a limited, additional deficit reduction tool for the President. The bill provides the President with a certainty of a vote on the President's rescission proposals, guaranteeing an accelerated process through Congress. While the President is guaranteed a vote on his rescissions, nothing can become law without the support of a majority of both Houses of Congress. This legislation respects congressional power of the purse.

H.R. 1578 also provides for congressional authority to offer a rescission alternative that is the immediate subject of consideration in the House if the President's rescission proposal is defeated. If the Appropriations Committee believes they can offer a better rescission package which emphasizes congressional priorities, they are free to report an alternative rescission proposal as well, provided it rescinds an equal or greater amount of budget authority. Additionally, nothing prohibits or impedes Congress from reporting additional rescissions under our constitutional power of the purse. This bill won't impede our authority to reconsider programs and rescind spending that fails to match with Federal priorities.

President Clinton's budget moves the country forward, addressing both the budget deficit and our national investment deficit, re-investing in critical spending priorities such as education and health. However, the Nation needs to move away from huge deficit increases accumulated during the past two administrations. Three quarters of the total Federal debt has been accumulated during the past 12 years. With a projected 1993 budget deficit of approximately \$319 billion and over \$4.1 trillion in aggregated Federal debt, the President could benefit from additional, stronger deficit reduction tools to rein in unnecessary Federal spending. Yesterday, President Clinton repeated his call for passage of this expedited rescission legislation.

I urge my colleagues to support the rule and H.R. 1578.

Mr. DERRICK. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. ANDREWS of New Jersey) having assumed the chair, Mr. SWIFT, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill, H.R. 1578, to amend the Congressional Budget and Impoundment Control Act of 1974 to provide for the expedited consideration of certain proposed rescissions of budget authority, had come to no resolution thereon.

LEGISLATIVE PROGRAM

Mr. SOLOMON. Mr. Speaker, I have asked for this time for the purpose of entering into a colloquy with the manager of the bill from the Rules Committee on the schedule for tomorrow. I assume the House is going in at 11 in the morning and that there will be some 1-minute speeches, and at that point it would be in order for the gentleman from Delaware [Mr. CASTLE] to call up his amendment in the nature of a substitute. Is that correct?

Mr. DERRICK. Mr. Speaker, will the gentleman yield?

Mr. SOLOMON. I yield to the gentleman from South Carolina.

Mr. DERRICK. Mr. Speaker, I think that basically is correct. I am a little shaky on that. I do not have the latest word. But my understanding is that we will come in and do some normal things that we do when we first go into session, and then we will go into the Castle-Solomon amendment. And then we will try to finish the amendments and finish the bill, which should take several hours, and probably we will be out of here by early afternoon or mid-afternoon at the latest.

Mr. SOLOMON. And there is a Michel amendment to the Castle substitute, and we would tomorrow morning perhaps like to clarify the fact that the gentleman from Illinois [Mr. MICHEL] would at some point during that 1 hour of debate on the Castle substitute be able to call up his amendment to that amendment.

Mr. DERRICK. The gentleman from Illinois [Mr. MICHEL] certainly has that right under the rule.

Mr. SOLOMON. I thank the gentleman.

[From the Congressional Record pages H2138-2163]

April 29, 1993

EXPEDITED RESCISSIONS ACT OF 1993

The SPEAKER pro tempore (Mr. FIELDS of Louisiana). Pursuant to House Resolution 149 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 1578.

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 1578) to amend the Congressional Budget and Impoundment Control Act of 1974 to provide for the expedited consideration of certain proposed rescissions of budget authority, with Mr. SWIFT in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Wednesday, April 28, 1993, all time for general debate had expired.

Pursuant to the rule, the amendment in the nature of a substitute printed in part 1 of House Report 103-52 is considered as an original bill for the purpose of amendment under the 5-minute rule and is considered as read.

The text of the amendment in the nature of a substitute made in order as an original bill is as follows:

H.R. 1578

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Expedited Rescissions Act of 1993".

SEC. 2. EXPEDITED CONSIDERATION OF CERTAIN PROPOSED RESCISSIONS.

(a) IN GENERAL.—Part B of title X of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 681 et seq.) is amended by redesignating sections 1013 through 1017 as sections 1014 through 1018, respectively, and inserting after section 1012 the following new section:

"EXPEDITED CONSIDERATION OF CERTAIN PROPOSED RESCISSIONS

"Sec. 1013. (a) PROPOSED RESCISSION OF BUDGET AUTHORITY.—In addition to the method of rescinding budget authority specified in section 1012, the President may propose, at the time and in the manner provided in subsection (b), the rescission of any budget authority provided in an appropriation Act. Funds made available for obligation under this procedure may not be proposed for rescission again under this section or section 1012.

"(b) TRANSMITTAL OF SPECIAL MESSAGE.—

"(1) Not later than 3 calendar days after the date of enactment of an appropriation Act, the President may transmit to Congress one special message proposing to rescind amounts of budget authority provided in that Act and include with that special message a draft bill that, if enacted, would only rescind that budget authority. That bill shall clearly identify the amount of budget authority that is proposed to be rescinded for each program, project, or activity to which that budget authority relates.

"(2) In the case of an appropriation Act that includes accounts within the jurisdiction of more than one subcommittee of the Committee on Appropriations, the President in proposing to rescind budget authority under this section shall send a separate special message and accompanying draft bill for accounts within the jurisdiction of each such subcommittee.

"(3) Each special message shall specify, with respect to the budget authority proposed to be rescinded, the matters referred to in paragraphs (1) through (5) of section 1012(a).

"(c) PROCEDURES FOR EXPEDITED CONSIDERATION.—

"(1)(A) Before the close of the second legislative day of the House of Representatives after the date of receipt of a special message transmitted to Congress under subsection (b), the majority leader or minority leader of the House of Representatives shall introduce (by request) the draft bill accompanying that special message. If the bill is not introduced as provided in the preceding sentence, then, on the third legislative day of the House of Representatives after the date of receipt of that special message, any Member of that House may introduced the bill.

"(B)(i) The bill shall be referred to the Committee on Appropriations of the House of Representatives. The committee shall

report the bill without substantive revision, and with or without recommendation. The bill shall be reported not later than the seventh legislative day of that House after the date of receipt of that special message. If the Committee on Appropriations fails to report the bill within that period, that committee shall be automatically discharged from consideration of the bill, and the bill shall be placed on the appropriate calendar.

“(ii) The Committee on Appropriations may report to the House, within the 7-legislative day period described in clause (i), an alternative bill which—

“(I) contains only rescissions to the same appropriation Act as the bill for which it is an alternative; and

“(II) which rescinds an aggregate amount of budget authority equal to or greater than the aggregate amount of budget authority rescinded in the bill for which it is an alternative.

“(C) A vote on final passage of the bill referred to in subparagraph (B)(i) shall be taken in the House of Representatives on or before the close of the 10th legislative day of that House after the date of the introduction of the bill in that House. If the bill is passed, the Clerk of the House of Representatives shall cause the bill to be engrossed, certified, and transmitted to the Senate within one calendar day of the day on which the bill is passed.

“(D) Upon rejection of the bill described in subparagraph (B)(i) on final passage, a motion in the House to proceed to consideration of the alternative bill reported from the Committee on Appropriations under subparagraph (B)(ii) shall be highly privileged and not debatable.

“(E) A vote on final passage of the bill referred to in subparagraph (B)(ii) shall be taken in the House of Representatives on or before the close of the 11th legislative day of that House after the date of the introduction of the bill in that House for which it is an alternative. If the bill is passed, the Clerk of the House of Representatives shall cause the bill to be engrossed, certified, and transmitted to the Senate within one calendar day of the day on which the bill is passed.

“(2)(A) A motion in the House of Representatives to proceed to the consideration of a bill under this section shall be highly privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

“(B) Debate in the House of Representatives on a bill under this section shall not exceed 4 hours, which shall be divided equally between those favoring and those opposing the bill. A motion further to limit debate shall not be debatable. It shall not be in order to move to recommit a bill under this section or to move to reconsider the vote by which the bill is agreed to or disagreed to.

“(C) Appeals from decisions of the Chair relating to the application of the Rules of the House of Representatives to the procedure relating to a bill under this section shall be decided without debate.

"(3)(A) A bill transmitted to the Senate pursuant to paragraph (1) (C) or (E) shall be referred to its Committee on Appropriations. The committee shall report the bill either without substantive revision or with an amendment in the nature of a substitute, and with or without recommendation. The bill shall be reported not later than the seventh legislative day of the Senate after it receives the bill. A committee failing to report the bill within such period shall be automatically discharged from consideration of the bill, and the bill shall be placed upon the appropriate calendar.

"(B) A vote on final passage of a bill transmitted to the Senate shall be taken on or before the close of the 10th legislative day of the Senate after the date on which the bill is transmitted.

"(4)(A) A motion in the Senate to proceed to the consideration of a bill under this section shall be privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(B) Debate in the Senate on a bill under this section, and all amendments thereto and all debatable motions and appeals in connection therewith, shall not exceed 10 hours. The time shall be equally divided between, and controlled by, the majority leader and the minority leader or their designees.

"(C) Debate in the Senate on any debatable motion or appeal in connection with a bill under this section shall be limited to not more than 1 hour, to be equally divided between, and controlled by, the mover and the manager of the bill, except that in the event the manager of the bill is in favor of any such motion or appeal, the time in opposition thereto, shall be controlled by the minority leader or his designee. Such leaders, or either of them, may, from time under their control on the passage of a bill, allot additional time to any Senator during the consideration of any debatable motion or appeal.

"(D) A motion in the Senate to further limit debate on a bill under this section is not debatable. A motion to recommit a bill under this section is not in order.

"(d) AMENDMENTS AND DIVISIONS GENERALLY PROHIBITED.—(1) Except as provided by paragraph (2), no amendment to a bill considered under this section or to a substitute amendment referred to in paragraph (2) shall be in order in either the House of Representatives or the Senate. It shall not be in order to demand a division of the question in the House of Representatives (or in a Committee of the Whole) or in the Senate. No motion to suspend the application of this subsection shall be in order in either House, nor shall it be in order in either House to suspend the application of this subsection by unanimous consent.

"(2)(A) It shall be in order in the Senate to consider an amendment in the nature of a substitute reported by the Committee on Appropriations under subsection (c)(3)(A) that complies with subparagraph (B).

"(B) It shall only be in order in the Senate to consider any amendment described in subparagraph (A) if—

- “(i) the amendment contains only rescissions to the same appropriation Act as the bill that it is amending contained; and
- “(ii) the aggregate amount of budget authority rescinded equals or exceeds the aggregate amount of budget authority rescinded in the bill that it is amending;

unless that amendment consists solely of the text of the bill as introduced in the House of Representatives that makes rescissions to carry out the applicable special message of the President.

“(C) It shall not be in order in the Senate to consider a bill or an amendment in the nature of a substitute reported by the Committee on Appropriations under subsection (c)(3)(A) unless the Senate has voted upon and rejected an amendment in the nature of a substitute consisting solely of the text of the bill as introduced in the House of Representatives that makes rescissions to carry out the applicable special message of the President.

“(e) REQUIREMENT TO MAKE AVAILABLE FOR OBLIGATION.—Any amount of budget authority proposed to be rescinded in a special message transmitted to Congress under subsection (b) shall be made available for obligation on the earlier of—

“(1) the day after the date upon which the House of Representatives defeats the bill transmitted with that special message rescinding the amount proposed to be rescinded and (if reported by the Committee on Appropriations) the alternative bill; or

“(2) the day after the date upon which the Senate rejects a bill or amendment in the nature of a substitute consisting solely of the text of the bill as introduced in the House of Representatives that makes rescissions to carry out the applicable special message of the President.

“(f) DEFINITIONS.—For purposes of this section—

“(1) the term ‘appropriation Act’ means any general or special appropriation Act, and any Act or joint resolution making supplemental, deficiency, or continuing appropriations; and

“(2) the term ‘legislative day’ means, with respect to either House of Congress, any calendar day during which that House is in session.”.

(b) EXERCISE OF RULEMAKING POWERS.—Section 904 of such Act (2 U.S.C. 621 note) is amended—

(1) by striking “and 1017” in subsection (a) and inserting “1013, and 1018”; and

(2) by striking “section 1017” in subsection (d) and inserting “sections 1013 and 1018”; and

(c) CONFORMING AMENDMENTS.—

(1) Section 1011 of such Act (2 U.S.C. 682(5)) is amended—

(A) in paragraph (4), by striking “1013” and inserting “1014”; and

(B) in paragraph (5)—

(i) by striking “1016” and inserting “1017”; and

(ii) by striking “1017(b)(1)” and inserting “1018(b)(1)”.

(2) Section 1015 of such Act (2 U.S.C. 685) (as redesignated by section 2(a)) is amended—

(A) by striking “1012 or 1013” each place it appears and inserting “1012, 1013, or 1014”;

(B) in subsection (b)(1), by striking "1012" and inserting "1012 or 1013";

(C) in subsection (b)(2), by striking "1013" and inserting "1014"; and

(D) in subsection (e)(2)—

(i) by striking "and" at the end of subparagraph (A);

(ii) by redesignating subparagraph (B) as subparagraph (C);

(iii) by striking "1013" in subparagraph (C) (as so redesignated) and inserting "1014"; and

(iv) by inserting after subparagraph (A) the following new subparagraph:

"(B) he has transmitted a special message under section 1013 with respect to a proposed rescission; and".

(3) Section 1016 of such Act (2 U.S.C. 686) (as redesignated by section 2(a)) is amended by striking "1012 or 1013" each place it appears and inserting "1012, 1013, or 1014".

(d) CLERICAL AMENDMENTS.—The table of sections for subpart B of title X of such Act is amended—

(1) by redesignating the items relating to section 1013 through 1017 as items relating to section 1014 through 1018; and

(2) by inserting after the item relating to section 1012 the following new item:

"Sec. 1013. Expedited consideration of certain proposed rescissions."

SEC. 3. APPLICATION.

(a) IN GENERAL.—Section 1013 of the Congressional Budget and Impoundment Control Act of 1974 (as added by section 2) shall apply to amounts of budget authority provided by appropriation Acts (as defined in subsection (f) of such section) that are enacted during the One Hundred Third Congress.

(b) SPECIAL TRANSITION RULE.—Within 3 calendar days after the beginning of the One Hundred Fourth Congress, the President may retransmit a special message, in the manner provided in section 1013(b) of the Congressional Budget and Impoundment Control Act of 1974 (as added by section 2), proposing to rescind only those amounts of budget authority that were contained in any special message to the One Hundred Third Congress which that Congress failed to consider because of its sine die adjournment before the close of the time period set forth in such section 1013 for consideration of those proposed rescissions. A draft bill shall accompany that special message that, if enacted, would only rescind that budget authority. Before the close of the second legislative day of the House of Representatives after the date of receipt of that special message, the majority leader or minority leader of the House of Representatives shall introduce (by request) the draft bill accompanying that special message. If the bill is not introduced as provided in the preceding sentence, then, on the third legislative day of the House of Representatives after the date of receipt of that special message, any Member of that House may introduce the bill. The House of Representatives and the Senate shall proceed to consider that bill in the manner provided in such section 1013.

SEC. 4. TERMINATION.

The authority provided by section 1013 of the Congressional Budget and Impoundment Control Act of 1974 (as added by section 2) shall terminate 2 years after the date of enactment of this Act.

SEC. 5. JUDICIAL REVIEW.**(a) EXPEDITED REVIEW.—**

(1) Any Member of Congress may bring an action, in the United States District Court for the District of Columbia, for declaratory judgment and injunctive relief on the ground that any provision of section 1013 (as added by section 2) violates the Constitution.

(2) A copy of any complaint in an action brought under paragraph (1) shall be promptly delivered to the Secretary of the Senate and the Clerk of the House of Representatives, and each House of Congress shall have the right to intervene in such action.

(3) Any action brought under paragraph (1) shall be heard and determined by a three-judge court in accordance with section 2284 of title 28, United States Code.

Nothing in this section or in any other law shall infringe upon the right of the House of Representatives to intervene in an action brought under paragraph (1) without the necessity of adopting a resolution to authorize such intervention.

(b) APPEAL TO SUPREME COURT.—Notwithstanding any other provision of law, any order of the United States District Court for the District of Columbia which is issued pursuant to an action brought under paragraph (1) of subsection (a) shall be reviewable by appeal directly to the Supreme Court of the United States. Any such appeal shall be taken by a notice of appeal filed within 10 days after such order is entered; and the jurisdictional statement shall be filed within 30 days after such order is entered. No stay of an order issued pursuant to an action brought under paragraph (1) of subsection (a) shall be issued by a single Justice of the Supreme Court.

(c) EXPEDITED CONSIDERATION.—It shall be the duty of the District Court for the District of Columbia and the Supreme Court of the United States to advance on the docket and to expedite to the greatest possible extent the disposition of any matter brought under subsection (a).

The CHAIRMAN. No amendments are in order except the amendments printed in part 2 of House Report 103-52, which may be offered only in the order printed and by the named proponent or a designee, shall be considered as read, shall not be subject to amendment except as specified in House Report 103-52, which shall not be subject to a demand for division of the question. Debate on each amendment will be equally divided and controlled by the proponent and an opponent of the amendment.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR.
CASTLE

Mr. CASTLE. Mr. Chairman, pursuant to the rule, I offer an amendment printed in part 2 of the report of the Committee on Rules.

The CHAIRMAN. The Clerk will designate the amendment in the nature of a substitute.

The text of the amendment in the nature of a substitute is as follows:

Amendment in the nature of a substitute offered by Mr. CASTLE, Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Title may be cited as the "The Legislative Line Item Veto Act of 1993".

SEC. 2. LEGISLATIVE LINE ITEM VETO RESCISSION AUTHORITY.

(a) In GENERAL.—Notwithstanding the provisions of part B of title X of The Congressional Budget and Impoundment Control Act of 1974, and subject to the provisions of this section, the President may rescind all or part of any discretionary budget authority for fiscal years 1994 and 1995 which is subject to the terms of this Act if the President—

(1) determines that—

(A) such rescission would help balance the Federal budget, reduce the Federal budget deficit, or reduce the public debt;

(B) such rescission will not impair any essential Government functions;

(C) such rescission will not harm the national interest; and

(D) such rescission will directly contribute to the purpose of this Act of limiting discretionary spending in fiscal year 1994 or 1995; and

(2) notifies the Congress of such rescission by a special message not later than 20 calendar days (not including Saturdays, Sundays, or holidays) after the date of enactment of a regular or supplemental appropriations act for fiscal year 1994 or 1995 or a joint resolution making continuing appropriations providing such budget authority for fiscal years 1994 and 1995.

The President shall submit a separate rescission message for each appropriations bill under this paragraph.

SEC. 3. RESCISSION EFFECTIVE UNLESS DISAPPROVED.

(a) Any amount of budget authority rescinded under this Act as set forth in a special message by the President shall be deemed canceled unless during the period described in subsection (b), a rescission disapproval bill making available all of the amount rescinded is enacted into law.

(b) The period referred to in subsection (a) is—

(1) a congressional review period of 20 calendar days of session during which Congress must complete action on the rescission disapproval and present such bill to the President for approval or disapproval;

(2) after the period provided in paragraph (1), an additional 10 days (not including Sundays) during which the President may exercise his authority to sign or veto the rescission disapproval bill; and

(3) if the President vetoes the rescission disapproval bill during the period provided in paragraph (2), and additional 5 calendar days of session after the date of the veto.

(c) If a special message is transmitted by the President under this Act and the last session of the Congress adjourns sine die before the expiration of the period described in subsection (b), the rescission shall not take effect. The message shall be deemed to have been retransmitted on the first day of the succeeding Congress and the review period referred to in subsection (b) (with respect to such message) shall run beginning after such first day.

SEC. 4. DEFINITIONS.

For purposes of this Act—

(a) The term “rescission disapproval bill” means a bill or joint resolution which only disapproves a rescission of discretionary budget authority for fiscal year 1994 or 1995, in whole, rescinded in a special message transmitted by the President under this Act; and

(b) The term “calendar days of session” shall mean only those days on which both houses of Congress are in session.

SEC. 5. CONGRESSIONAL CONSIDERATION OF LEGISLATION LINE ITEM VETO RESCISSIONS.

(a) **PRESIDENTIAL SPECIAL MESSAGE.**—Whenever the President rescinds any budget authority as provided in this Act, the President shall transmit to both Houses of Congress a special message specifying—

(1) the amount of budget authority rescinded;

(2) any account, department, or establishment of the Government to which such budget authority is available for obligation, and the specific project or governmental functions involved;

(3) the reasons and justifications for the determination to rescind budget authority pursuant to this Act;

(4) to the maximum extent practicable, the estimated fiscal, economic, and budgetary effect of the rescission; and

(5) all factions, circumstances, and considerations relating to or bearing upon the rescission and the decision to affect the rescission, and to the maximum extent practicable, the estimated effect of the rescission upon the objects, purposes, and programs for which the budget authority is provided.

(b) **TRANSMISSION OF MESSAGES TO HOUSE AND SENATE.**—

(1) Each special message transmitted under this Act shall be transmitted to the House of Representatives and the Senate on the same day, and shall be delivered to the Clerk of the House of Representatives if the house is not in session, and to the Secretary of the Senate if the Senate is not in session. Each special message so transmitted shall be referred to the appropriate committees of the House of Representatives and the Senate. Each such message shall be printed as a document of each House.

(2) Any special message transmitted under this Act shall be printed in the first issue of the Federal Register published after such transmittal.

(c) **REFERRAL OF RESCISSION DISAPPROVAL BILLS.**—Any rescission disapproval bill introduced with respect to a special message shall

be referred to the appropriate committees of the House of Representatives or the Senate, as the case may be.

(d) Consideration in the Senate.—

(1) Any rescission disapproval bill received in the Senate from the House shall be considered in the Senate pursuant to the provisions of this Act.

(2) Debate in the Senate on any rescission disapproval bill and debatable motions and appeals in connection therewith, shall be limited to not more than 10 hours. The time shall be equally divided between, and controlled by, the majority leader and the minority leader or their designees.

(3) Debate in the Senate on any debatable motion or appeal in connection with such bill shall be limited to 1 hour to be equally divided between, and controlled by the mover and the manager of the bill, except that in the event the manager of the bill is in favor of any such motion or appeal, the time in opposition thereto shall be controlled by the minority leader or his designee. Such leaders, or either of them, may, from the time under their control on the passage of the bill, allot additional time to any Senator during the consideration of any debatable motion or appeal.

(4) A motion to further limit debate is not debatable. A motion to recommit (except a motion to recommit with instructions to report back within a specified number of days not to exceed 1, not counting any day on which the Senate is not in session) is not in order.

(e) POINTS OF ORDER.—

(1) It shall not be in order in the Senate or the House of Representatives to consider any rescission disapproval bill that relates to any matter other than the rescission budget authority transmitted by the President under this Act.

(2) It shall not be in order in the Senate or the House of Representatives to consider any amendment to a rescission disapproval bill.

(3) Paragraphs (1) and (2) may be waived or suspended in the Senate only by a vote of three-fifths of the members duly chosen and sworn.

The CHAIRMAN. Pursuant to the rule, the gentleman from Delaware [Mr. CASTLE] will be recognized for 30 minutes, and a Member opposed will be recognized for 30 minutes.

The Chair recognizes the gentleman from Delaware [Mr. CASTLE].

Mr. CASTLE. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, accountability. This is the purpose of the line-item veto. Passage of line-item veto authority for the President will make both the President and the Congress more accountable to the American people. The substitute proposed by JERRY SOLOMON, PETER BLUTE, JACK QUINN, and myself is the best method to make our Government more accountable for its spending decisions. The Castle-Solomon substitute is the line-item veto.

As a former Governor, I can tell you from experience that a line-item veto by itself will not end the deficit. It will not balance the budget. It is not a magic solution to our budget problems. However, it is an effective method to improve how we spend the taxpayers

money. By making both the President and Congress more accountable for their spending decisions, we will produce better legislation with less wasteful spending.

Accountability is the key. If the President has the line-item veto, he cannot shirk his responsibility for funding programs that are unnecessary, he will not be able to blame so-called pork barrel spending on Congress. If he does not agree with a specific appropriation, he can cross it out and demand that Congress justify the spending by disapproving his veto.

Accountability. The line-item veto will make Congress more accountable to the American people. With the line-item veto in place, Congress will take a harder look at the programs it funds. Congress will not be able to send an appropriations bill to the President that includes projects which do not stand up to scrutiny.

To my colleagues who fear that the line-item veto will give the executive branch of our Government too much power at the expense of the legislative branch, this will not occur. Rather, experience shows us that the existence of the veto simply encourages the executive and the legislature to negotiate reasonable, responsible legislation which does not fund pork barrel projects.

Today, the true line-item veto is contained in the Castle-Solomon amendment. This amendment would authorize the President to rescind or cut any discretionary appropriation for the next 2 years. These cuts would go into effect unless both Houses of Congress voted against the spending cuts. This is the crux of the matter. Congress should have to vote to disapprove the President's cuts.

The Spratt-Stenholm bill allows either House to derail the cuts simply by not passing legislation to approve them. To be honest, this wiggle room will allow Congress to avoid confronting the tough decisions the American people want them to make on spending.

The Castle/Solomon amendment is a true line-item veto. It would require both Houses of Congress to disapprove the President's cuts. The President could then veto the disapproval bill and his veto would have to be overridden by a two-thirds vote in both Houses. If this fails, the cuts go into effect.

Mr. Chairman, a true line-item veto will not tilt the balance of power in the Federal Government to the executive branch. It will serve as a tool to bring Republicans, Democrats, Congress and the administration together to produce responsible levels of spending on Federal programs. I urge my colleagues to enact a true line-item veto—pass the Castle-Solomon substitute.

The CHAIRMAN. The Chair will inquire, does the gentleman from South Carolina [Mr. DERRICK] oppose the amendment?

Mr. DERRICK. I do, Mr. Chairman.

The CHAIRMAN. The Chair recognizes the gentleman from South Carolina [Mr. DERRICK].

Mr. DERRICK. Mr. Chairman, I yield myself 4½ minutes, and I rise in opposition to the amendment.

Mr. Chairman, the Castle-Solomon amendment does not improve the bill, and Members ought to reject it for one simple reason: The procedure proposed in this amendment would enable a one-third-plus-one minority of either House to join with a President to dictate the fiscal priorities of this country.

Under this amendment, a President could propose rescissions and they would take effect permanently unless Congress voted to disapprove them by majority vote within a specified time. Since a President will surely veto any bill to disapprove his rescissions, for Congress' fiscal priorities to prevail would require a two-thirds vote in both Houses to override the veto. Conversely, for the President to prevail, he need convince only one-third plus one of either House to sustain his veto.

Mr. Chairman, the principle which underlies our democratic system of government is majority rule. I do not believe it wise for Congress to create a rescission process in which a President, with the support of only 34 senators or 146 representatives, could dictate fiscal policy, on a line-by-line basis, to majorities in both the House and Senate. We should not tilt the balance of the power of the purse so dramatically in the President's favor, no matter who he is and no matter what political party he belongs to.

What reason do we have to believe the President's fiscal priorities are inherently better than those of the Congress? Assuming deficit reduction is the policy goal we want to advance, what reason have we to believe the Executive branch institutionally favors less spending than Congress? In fact, there is considerable evidence to the contrary.

How many times has the chairman of our Committee on Appropriations told us that since 1945 the Committee has appropriated billions of dollars less than the various Presidents have requested? Moreover, since 1974 Presidents have proposed only \$69.3 billion in rescissions; Congress has actually rescinded over \$71 billion in spending.

Mr. Chairman, the goal of the underlying bill, and indeed this entire exercise, is to add accountability for spending decisions to the appropriations process. The goal is not merely to advance and promote the President's brand of spending over Congress' brand of spending, which is what the Castle-Solomon amendment would do.

We are dealing with the fundamental relationship between the two political branches. We must not give any President the ability to shove his priorities down Congress' throat. We have no idea what his priorities might be; we know only they will be different. If the President can convince a majority of each House to reject the items he has identified as wasteful and proposed to repeal, then he ought to prevail. But he ought not prevail with only minority support. If he lacks majority support for his position, then he can still use his regular veto.

Mr. Chairman, the bill is designed to give the President an opportunity and in fact impose upon him the responsibility to ferret out arguably wasteful items in appropriations acts and force Congress to approve them again. I believe the bill will achieve the desired effect without disrupting the balance of power so carefully created by our Founding Fathers.

The Castle-Solomon amendment, on the other hand, simply goes too far. It would enable the President and a minority in one House to dictate his priorities to majorities in both Houses. I urge all Members to reject the amendment and support the bill.

I reserve the balance of my time.

Mr. CASTLE. Mr. Chairman, I yield 2½ minutes to the distinguished gentleman from Texas [Mr. ARMEY].

Mr. ARMEY. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, it is important to realize that this whole debate today is about amending the Budget Reform and Empowerment Control Act of 1974. It was with that bill that Congress grabbed enormous power from the executive branch and totally destroyed the budgetary checks and balances between the legislative and the executive branches by taking away the rescission authority of the President.

It is my belief that had that act not passed, we would not today have a nation that clamors for a line-item veto or a nation that at least says, "Give us a legitimate enhanced rescission."

Mr. Chairman, I have been working on this question of enhanced rescission since 1985. I began working on it with a bright young Senator from Indiana named Dan Quayle. It was our belief at that time that we had to move in the direction of rescission because Congress would never cede to the President a legitimate line-item veto, and that enhanced rescission was some significant extension of the President's power.

Since that time there have been three groups of people working on this issue in Congress. There have been those of us who wanted to have a legitimate extension of authority for the President of the United States in budgetary matters. That interest is represented today by the Solomon-Castle effort. That is the legitimate increase in authority on the part of the executive branch by an amendment to the Budget Act of 1974.

There has been another group of people that have said under no terms whatsoever will we increase the President's authority in these matters. Those are the people who will vote against any form, any shape, any type of rescission legislation. They wish to hog all the power for Congress.

Then there has been that really great group in the middle that have said:

"Let's do the political thing: let's give the President something that looks like rescission and has in fact no power in it, and then give ourselves credit for giving him line item veto."

That effort today is represented by the Spratt amendment. The Spratt amendment has a loophole.

Mr. Chairman, if you vote down Solomon-Castle and vote up Spratt, you will give the nine Democrats on the Committee on Rules of the House the right to define the President's rescission authority in fact. What is worse, you will give the Democrats the ability to pass this off as an extension of authority to the White House.

Save yourself the intellectual embarrassment. Vote yes on Solomon; vote no on Spratt.

Mr. DERRICK. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Colorado [Mr. SKAGGS].

Mr. SKAGGS. Mr. Chairman, I wish to express my opposition to the proposed amendment. While I am sure that my colleagues who are sponsoring this amendment have done so in good faith, I am convinced that their proposal would not withstand judicial review.

As the Supreme Court noted in its decision in *I.N.S. versus Chadha*, "Explicit and unambiguous provisions of the Constitution

prescribe and define the respective functions of the Congress and of the Executive in the legislative process." The Court continues, "These provisions of Article 1 are integral parts of the constitutional design for the separation of powers."

The substitute amendment before the House clearly changes the balance of powers between the executive and legislative branches by allowing the President to become more directly involved in the legislative process. In doing so, it violates the Constitution's separation of powers.

The Framers of the Constitution clearly placed great emphasis on the legislative branch. In their Federalist papers, Hamilton and Madison both expressed the view that the legislature would be the most powerful branch of government. Thus, they recognized the need for some checks on the legislature. First, the Constitution provides for a bicameral legislature, with each body elected under different terms and districts. Second, it affords the President a veto power.

That veto power, as a check on Congress, was recognized to be a blunt instrument. As Hamilton explains in Federalist paper No. 373, in giving the President a veto power, the Framers acknowledged that "the power of preventing bad laws includes that of preventing good ones." It was their sense, however, that "the negative would be employed with great caution."

Although the Framers' expectations about its frequency have lately proved incorrect, the veto was certainly not seen by them as a vehicle to involve the President directly in designing or perfecting legislation.

The proposed substitute, by providing the President with the authority to selectively veto parts of legislation without requiring subsequent bicameral legislative action, clearly moves beyond the framework defined in article 1, section 7. Unlike the substitute, the underlying proposal, H.R. 1578, preserves the prerogatives of the legislature.

Under the substitute amendment, what the President decides to eliminate is simply eliminated, unless the Congress acts to restore it. This would allow the President and a minority in Congress to frustrate the will of the majority—an outcome that flies in the face of the Framers' strong belief in the central role of a democratically elected legislature. As we are now witnessing in the other body, such an outcome is not just a remote possibility—a minority may well be willing to frustrate the will of the majority, and undermine the common good, for its own perceived political advantage.

Finally, it is interesting to note that both Hamilton and Madison often chose to refer to the veto process as one of returning bills to the Legislature for reconsideration. Unlike the substitute amendment, the underlying bill, H.R. 1578, is clearly consistent with this view of the process. Its procedures for quick action by Congress on either the President's rescission proposal or an alternative package provides the means to ensure fiscal accountability while prompting the type of legislative reconsideration the framers desired.

What may seem to some to be procedural problems with the proposed substitute amendment should not be viewed so lightly. As the Court explained in *Chadha*:

"The choices we discern as having been made in the Constitutional Convention impose burdens on governmental processes that often seem clumsy, inefficient, even unworkable, but those hard choices were consciously made by men who had lived under a form of government that permitted arbitrary governmental acts to go unchecked. There is no support in the Constitution or decisions of this Court for the proposition that the cumbersomeness and delays often encountered in complying with explicit constitutional standards may be avoided, either by the Congress or by the President. With all the obvious flaws of delay, untidiness, and potential for abuse, we have not yet found a better way to preserve freedom than by making the exercise of power subject to the carefully crafted restraints spelled out in the Constitution."

So, despite the honorable intentions of my colleagues, I believe that their substitute amendment goes too far in altering the separation of powers set forth in the Constitution. H.R. 1578, on the other hand, meets our desires for more fiscal accountability, while being consistent with the design of government established in our Constitution. I urge my colleagues to reject the substitute before it is rejected by the Courts.

Mr. CASTLE. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Massachusetts [Mr. BLUTE].

Mr. BLUTE. Mr. Chairman, I thank the gentleman from Delaware [Mr. CASTLE] for yielding, the former Governor who actually wielded a line-item veto authority in his State.

Mr. Chairman, this is it. This is our opportunity to make real change, like we talked about on the campaign trail just a few months ago, and like the President talked about on the campaign trail when he asked and campaigned for the line-item veto authority. Not the enhanced rescission or expedited rescission. The President had a dialog with the American people and said that he needed the line-item veto authority in order to get excessive spending under control.

Once again, what happened on the way to governing? What changed in the interim to reverse the President's request?

I think if anything, the arguments for the line-item veto have increased in the ensuing months, particularly since we are talking in this House and in the other body about the raising, the largest tax increase in American history on working men and women throughout this country. I think we should be talking about serious efforts to get the budget deficit under control.

The line-item veto works. It works in 43 States, as I mentioned. The gentleman from Delaware has used it. It works to bring people together, as he pointed out, in the budget process. It works to reduce excessive and unnecessary spending in the budget.

I served in the Massachusetts Legislature, had that privilege for 6 years. And I served under a Democratic Governor, Governor Dukakis. I served under a Republican Governor, Governor Weld. And I can tell my colleagues that it was never used for the type of intimidation tactics that have been raised here, I think, as a red herring by the opponents of a strong line-item veto.

It was used, rather, to keep the budget focused on being balanced, on reducing unnecessary spending.

If the States are truly the laboratories of democracy, as the Founders envisioned, then the line-item veto has to be considered a very successful experiment, indeed. It works.

I think when we are faced with a huge deficit, a tremendous amount of money and resources going to debt service, and we are facing the largest tax increase in American history, I think, unfortunately, we better tell the American people that we are going to do everything in our power to get this deficit under control and to rid ourselves of the tendency toward deficit spending.

The line-item veto that is encompassed in this amendment is the one that can do the job, that is strong enough to do the job. The enhanced rescission, the other option, is a weaker version. And I do not think it will allow the President to be the fiscal disciplinarian in this process.

Mr. Chairman, I urge my colleagues on both sides of the aisle, liberals and conservatives, to try something new, something real, the line-item veto.

Mr. DERRICK. Mr. Chairman, I yield 4 minutes to the gentleman from North Carolina [Mr. PRICE].

Mr. PRICE of North Carolina. Mr. Chairman, if ever there were a cure worse than the disease, it is the line-item veto—the substitute proposal for which our Republican friends are making such extravagant claims today. It is a popular idea, a superficially attractive idea. But it is our job to probe below the surface, to get beyond the talk-show rhetoric. When we do that we will see that the line-item veto has less to do with budgeting—much less to do with reducing the deficit—than it does with shifting power to the executive branch. And I believe I can demonstrate that had it been in effect over the last 12 years, the result would have been not less spending but more.

We need to understand: Presidents almost always ask for more money than Congress is willing to appropriate. Despite the rhetoric we've heard for the last 12 years, the fact is that Presidents Reagan and Bush requested nearly \$60 billion more than Congress proved willing to appropriate. I personally can remember being asked to vote for \$4 billion for star wars when I was willing to vote for only \$2 billion; being asked to vote for a full fleet of B-2 bombers, for extravagant military aid to El Salvador, and so forth. And each time we refused or reduced those requests.

Now think what might have happened on those votes if White House representatives could have come to us and threatened legitimate and vital appropriations items? I hope that we would not have succumbed to those pressures, but I can tell you it would have greatly increased the President's leverage over Members of this body. And the likely result would have been more spending, not less. We would have been pressured to vote for the Executive's bloating spending requests in order to secure a place in the budget for urgent and necessary items.

Think, too, of the enormous leverage the line-item veto would give the President at the conference stage—pressuring conferees to accede to executive requests lest their own items be deleted.

It is ironic that self-styled conservatives, those erstwhile foes of concentrated executive and bureaucratic power, should embrace this proposal. As our Republican former colleague Mickey Edwards

of Oklahoma argued very persuasively, a line-item veto is the last thing that true conservatives ought to advocate.

We began this 103d Congress with a mandate to reduce the budget deficit and to control wasteful spending. We must tighten our own spending bills. The budget resolution we have just passed sets stringent spending limits; it will force us to set priorities and to squeeze out nonessential items. We also must make the rescission process work. The President already has the power to propose line-item rescissions. Unfortunately, Presidents Reagan and Bush rarely used this mechanism. And the few times they did, Congress generally rescinded even more than they requested.

The enhanced rescission proposal we will vote on later today arguably will improve that process, and I plan to support it as a trial measure. But the substitute the Republicans have proposed, a full-fledged line-item veto, would shift power drastically and dangerously to the White House and would make it harder, not easier, to reduce spending and Government waste.

We would do well, Mr. Chairman, to heed Aesop's admonition that "Appearances are often deceiving." When we look beneath the rhetoric and consider how the line-item veto actually would work, it becomes clear that this device would not only fail to do what its champions claim: It actually could have the opposite effect. I urge my colleagues to take that closer look and to reject the Solomon substitute.

Mr. CASTLE. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from New York [Mr. QUINN].

Mr. QUINN. Mr. Chairman, I thank my colleague, the gentleman from Delaware [Mr. CASTLE] for yielding time to me.

I thank the gentleman who just spoke to me from that side of the aisle who called our amendment today exactly what it is. It is the full-fledged line-item veto, no doubt about it.

We debated last night the difference between the line-item veto and enhanced rescission. The difference is the line-item veto is the real thing. Enhanced rescission is a watered-down substitute for the real thing.

The line-item veto is what President Clinton asked for and continues to ask for. Enhanced rescission, on the other hand, is what the majority in this Congress want to give the President.

The line-item veto requires a two-thirds majority of the Congress to override the President's budget cuts. Enhanced rescission, on the other hand, needs just a simple majority to approve cuts to spending Congress already passed.

The line-item veto, I believe, will help control Government spending, cut the deficit, and strengthen our economy. Enhanced rescission, on the other hand, will let Congress continue to tax and spend as usual.

The line-item veto is the whole loaf, my colleagues. Enhanced rescission is only half a loaf.

Today, we are going to have the opportunity, by casting a vote for the Castle-Solomon substitute, to have the whole loaf for the American people.

The American people want just that. They are starving for change in Washington, DC.

We all heard the cries for reform last November in our respective campaigns, but are we still listening?

Vote for the Castle-Solomon line-item veto later this afternoon. The substitute amendment will be a vote for a real line-item veto.

Mr. DERRICK. Mr. Chairman, I yield 1½ minutes to the gentleman from Ohio [Mr. APPELGATE].

Mr. APPELGATE. Mr. Chairman, passage of the Solomon amendment, the Michel amendment, or the bill would constitute a breach of the separation of powers. I think it is a principle that we must adhere to.

In any event, the people end up losing. Any President can veto any appropriation bill or any tax bill right now. All he has to do is send it back to the Congress and say, "Take out specified spending or taxes, send it back and I will sign it."

But none of them do. That is a true line-item veto. President Reagan and President Bush preached line-item veto to balance the budget but never once vetoed an appropriation or a so-called pork bill.

The people put us here so that they would have a voice. Let us not give it away. This is the people's House. They can reach us, but how many people in this country can call the President of the United States or even a Senator? Give me a break.

We need to work with the President, not to give him the job that we were elected to do.

Mr. CASTLE. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Oklahoma [Mr. ISTOOK].

Mr. ISTOOK. Mr. Chairman, our choice today is between fiction and nonfiction, real versus make-believe. The Castle-Solomon amendment is real. It is a good amendment. Without it, this bill is not line-item veto.

But the amendment would create a mechanism so the President can kill pork-barrel spending, and two-thirds of Congress would be required to override. Without this amendment, we have only a bill that says well, the President can suggest some cuts, but no cuts would be made unless a majority of Congress actively approved them.

The President can already send a list of his suggestions to us, and some of our colleagues are saying that this is an ability for Bill Clinton to cut pork and saying it is line-item veto, but no, it is only to make the public think we cut pork while Congress preserves pork-barrel spending.

You can preserve pork with refrigeration, you can do it with curing it with salt, or you can do it with smoke, smoke and mirrors. Let us not have it. Let us vote for the Castle-Solomon amendment.

Mr. DERRICK. Mr. Chairman, I yield 5 minutes to the gentleman from South Carolina [Mr. SPRATT].

Mr. SPRATT. Mr. Chairman, I yield to the gentleman from California, Mr. MINETA, chair of the Committee on Public Works and Transportation, for the purpose of a colloquy.

Mr. MINETA. I thank the gentleman for yielding. My question goes to section 2(c) of the substitute. That section would give the Appropriations Committee the authority to report an alternative rescission bill which would rescind, and I quote, "an aggregate amount of budget authority. * * *" My understanding is that in this

context, "budget authority" does not include contract authority since technically, contract authority is not provided in appropriations bills. For example, contract authority for the highway, transit, and aviation programs is provided by the Public Works and Transportation Committee. Is that the gentleman's understanding of the legislative intent of this section?

Mr. SPRATT. The gentleman is correct. The intent of this section is that budget authority means spending provided by the Appropriations Committee and, for the reasons the gentleman stated, does not include contract authority.

Mr. MINETA. I thank the gentleman for clarifying the legislative intent.

Mr. SPRATT. Mr. Chairman, Judge Bork, an able Republican who was my professor at one time, argued recently that those who say the Constitution provides the President with a line-item veto are met first with this question: Why has no President noticed this fact for over 200 years?

Judge Bork says, "Indeed, why have Presidents uniformly taken precisely the contrary view, beginning with President Washington," who did not notice it. He said about the Constitution, "From the nature of the Constitution, I must approve all parts of a bill, or reject it in toto."

William Howard Taft, another reputable Republican who was both President and Chief Justice said, "The President has no power to veto parts of the bill and allow the rest to become law. He must accept it or reject it."

Even where Judge Bork and President Washington and Chief Justice Taft refused to tread, Representative CASTLE and Representative SOLOMON would rush in. And they would essentially say maybe the Constitution does not inherently give the President this power, but maybe we in Congress can confer the President with a broad power which he does not have in the Constitution. Maybe we can amend the Constitution by statute.

They do not use the word, but as I read the statute, it appears to me that the device they are using is delegation. They are suggesting that we can delegate to the President the power to veto items in a bill in lieu of vetoing the entire bill itself.

Now that is a big step, changing the Constitution by statute, and it gives the President enormously broad powers. It is as broad as the budget we pass every year, in 13 different appropriation bills, when we bring them to the floor with billions upon billions of dollars, year in and year out. It is so broad, so unique, so unusual that it has to beg the question: "Is it constitutional?"

Fifty years ago the Supreme Court said, "Sweeping delegations of legislative power are unconstitutional."

I know that a lot of water has flowed over the dam since then, but 7 years ago in a case dealing with the budget authority of the Congress, the Synar case, Justice Scalia said, "The ultimate judgment regarding the constitutionality of a delegation must not be made on the basis of the scope of the power alone, but on the basis of its scope plus the specificity of the standards governing its exercise." When the scope increases to immense proportions, the standards must be correspondingly more precise. The broader the scope, the stricter the standards.

Well, there is no question that the scope here is immense, it is enormous with the standards that Castle-Solomon impose.

What guidelines, what conditions do they impose upon the President when he chooses to use his power that they would give him? First of all, they say the rescission must reduce the deficit, or the debt, and limit discretionary spending. Ladies and gentlemen, that is tautological. By definition, every spending cut will do this, in short, so it is not a standard.

Then they say the rescission must not impair essential governmental functions or harm the national interest.

These standards are so broad and vacuous that they are literally empty and subjective, and the President can fill them any way he wants to. So this is not a delegation. By definition, it is an abdication. It is an abdication of power to the President, and an abdication of our duty to uphold and defend the Constitution.

If you want to add a line-item veto to the President's powers, then do it the right way. Amend the Constitution. Do not pass a bill that will not pass constitutional muster.

Mr. CASTLE. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Arkansas [Mr. HUTCHINSON].

Mr. HUTCHINSON. Mr. Chairman, I thank the gentleman for yielding me the time.

Two weeks ago I had the opportunity to speak to the largest exchange club in the United States. At the end of my speech someone in the audience shouted out: "Ask us about the line-item veto. Ask us what we think of that." So I did. And without exception, unanimously the hands went up in support of a real line-item veto.

Mr. Chairman, the standing of Congress is at an all-time low. Our approval rating is just above that of Saddam Hussein, and the reason is because we have been dishonest, we have been devious with the American people.

Expedited rescission is not line-item, and it is not veto. Let us not say that it is.

The President had a real line-item veto as Governor of the State of Arkansas where I served with him, and he deserves no less in Washington. That is why I support Castle-Solomon.

Mr. CASTLE. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. DOOLITTLE].

Mr. DOOLITTLE. Mr. Chairman, I support the Castle-Solomon amendment because it restores fiscal accountability to the Government of the United States and to the people of America, whom we represent.

While the Congress has authority and responsibility, the institution refuses to be accountable. The President is accountable, and having a line-item veto is something that we need to have.

But the real reason, Mr. Chairman, that the line-item veto is going to be killed and replaced by the share enhanced rescission was stated yesterday by my classmate and colleague and friend, NEIL ABERCROMBIE, whose comments appear today in the Washington Post.

I quote from this article, "ABERCROMBIE, one of the most liberal Members of the House, said he changed his 'no' vote after talking to FOLEY and Representatives BILL HEFNER and PATSY MINK."

Now quoting Representative ABERCROMBIE directly, "If the rule failed, we would be faced with the possibility of a pure line-item veto or a balanced-budget amendment coming before us," ABERCROMBIE said.

Mr. Chairman, killing real fiscal accountability is what enhanced rescission is all about. The Castle-Solomon amendment is a good amendment and I would urge its support. Enhanced rescission as contained in H.R. 1578 actually makes worse the present law because it will be used as justification to preclude further votes on a real line-item veto during the 103d Congress and because it requires the chief executive to act within 3 days of the legislation's enactment. Three days does not allow sufficient time to examine complex bills containing thousands of line-items. Present law allows the Chief Executive the entire fiscal year in which to act. For these reasons, H.R. 1578 should be rejected.

Mr. DERRICK. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Texas [Mr. STENHOLM].

Mr. STENHOLM. Mr. Chairman, interestingly, here we are today after the debate of last night debating the Solomon-Castle real line-item veto. It has been amazing to me listening to the rhetoric that has gone on over these last several days, and even listening to it this morning. There are a number of Members who have not even read the bill, have not even read the Spratt-Stenholm, and are talking about things that are not in it.

But I am here today to talk about the Solomon amendment. I oppose it. I oppose Mr. Solomon's amendment. I have opposed giving any President line-item veto with one-third-plus-one veto authority, because I agree more strongly with the conclusion of the gentleman from North Carolina [Mr. PRICE] about the power transfer.

I have spoken to Rotary Clubs. I have heard the same questions that have been asked, and I have always given the same answer. I do not want to give any President from either party that much power.

There is a big difference, in case you have not checked lately, between the Governor of Arkansas, the Governor of Texas, the Governor of California, the Governor of any of our 50 States, and the President of the United States under the Constitution that has declared three separate but coequal branches of Government. I believe that.

But by the same token, I worked hard. I fought hard to see that the gentleman from New York [Mr. SOLOMON] and those of you who believe in giving that much power to any President would have the opportunity to come here today and to debate it and to vote up and down on a recorded vote, and to those that want the pure line-item veto, you can vote for it. I will not. I do not support it.

But I believe that those who do have every right in the world to bring that debate to the floor and debate it. I just wish we could debate it based on the merits. But we have chosen not to do that today.

You know, I have heard about the sunset provisions and the fact that we sunset it. The gentleman from New York [Mr. SOLOMON] sunsets his. The question I would ask is: Why? Simply, we

sunset it last year with the Republican administration. We put in a sunset law. We wanted to try it when it was a good idea.

We agree on that, but some folks have been down here talking like the Spratt-Stenholm has a sunset provision; that is bad. But we have it in both bills.

The balance of power: The argument here today, and this is what I will conclude with, for one of the first times in a long time we are going to have an opportunity for an up-and-down vote. Those who want to do nothing will have that chance. Those who want the pure line-item veto will have that chance. Those of us who believe we need to move the peg forward, to move, and give, and try for 2 years a modified line-item veto, a chance, we will have that opportunity. If it is the will of the House to do nothing, we will get a chance to do so. If it is the will of the House that we adopt the Solomon-Castle amendment, we will do so. And if it is the will of the House that we do nothing, that we keep the status quo and go home and explain that, we can do that also.

Mr. CASTLE. Mr. Chairman, I yield 1 minute to the gentleman from Pennsylvania [Mr. CLINGER].

Mr. CLINGER. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, the Wall Street Journal suggests the choice we have before us today is the choice between chicory-flavored water and real coffee. Well, I am hoping the Members are going to wake up and smell the real coffee today which is represented by the amendment offered by the gentleman from Delaware [Mr. CASTLE] and the gentleman from New York [Mr. SOLOMON]. I have already spoken to the committee about my concerns with the shortfalls in the Stenholm-Spratt expedited rescission proposal and again urge its rejection. A better alternative would be the amendment offered by Mr. CASTLE and Mr. SOLOMON which provides that budget authority rescinded by the President would go into effect unless Congress passed legislation canceling the President's rescission with a majority vote. If that congressional vote is vetoed by the President, a two-thirds majority would be needed to override the President's veto.

This proposal is a statutory line-item veto and it is the only proposal which can work to effectively reduce the Federal budget deficit.

I support this amendment because it is the measure closest to an actual line-item veto. Even though its powers are not permanent, it provides the President with a meaningful ability to cut spending.

Presidents, for as long as I can remember, have sought a line-item veto. Even President Clinton, during his campaign, supported much stronger veto authority than that provided in the Spratt-Stenholm compromise. It appears now, however, that the majority party is attempting to role their own President again by fooling him and the American people with the meaningless, token powers included in the Spratt-Stenholm bill. It is legislation like the Castle-Solomon bill which President Clinton endorsed during the campaign. If the American people are calling for an end to gridlock, let's work together, Democrats and Republicans, to end it here by giving the President the type of deficit cutting powers he asked for during the campaign.

I urge the adoption of the Castle-Solomon amendment because it is the type of spending power sought by President Clinton to help control the growing Federal budget deficit.

Mr. CASTLE. Mr. Chairman, I yield 3 minutes to the distinguished minority leader, the gentleman from Illinois [Mr. MICHEL].

Mr. MICHEL. Mr. Chairman, I would like to speak in favor of the legislative line-item veto proposal offered by the gentleman from Delaware [Mr. CASTLE] and the gentleman from New York [Mr. SOLOMON] and against the base bill. I will later offer my own amendment to the amendment offered by the gentleman from Delaware [Mr. CASTLE] and the gentleman from New York [Mr. SOLOMON], that would also give the President the authority to veto special tax provisions in tax bills in addition to appropriations in appropriation bills as the Castle amendment provides for. If the amendment offered by the gentleman from Delaware [Mr. CASTLE] and the gentleman from New York [Mr. SOLOMON] does not prevail today, I am going to have to vote against the base text altogether.

To be called line-item veto legislation, the Democrat Proposal is, at best, a farce and at worst a cynical and insulting impostor. The legislative line-item veto substitute offered by the Castle amendment requires a two-thirds majority of both Houses to override the President's line-item veto. Only then would the money have to be spent which the President sought to rescind or veto.

This proposal has real teeth. It gives the President a genuine chance to get at unnecessary and wasteful spending items.

By contrast, the expedited rescission proposal in the base bill does little more than speed up the existing process.

In addition, any rescission proposed by the President can be overturned by a mere majority of either House.

Voting against a rescission, by just a simple majority vote does not change the process at all. If this expedited rescission proposal is agreed to today, the President and the Democrats in Congress will claim they have acted on a line-item veto proposal.

The line-item veto proposal that is fixed in the minds of the public is something far different than in this farcical thing we have before us today. Action on this watered-down bill will foreclose further action this year on any real and meaningful legislative line-item veto.

My bone of contention is that the President really will not have any more authority than he now has under the existing rescission procedure.

I want the American public to realize what is really happening there today. This is not, and I repeat, not a line-item veto proposal. Even the chief sponsor, my good friend, the gentleman from South Carolina [Mr. SPRATT], testified before the Committee on Rules on April 1, that he did not think this expedited rescission procedure in this bill would be used much. I will be willing to wager today you will not save \$10 million in the remainder of this Congress by this proposal. You will not save \$10 million. I will put my reputation on the line here. You wait and see how farcical this proposition is.

I fully understand the gentleman's faint praise for his own bill, but the base bill suffers from one monumental flaw. It does not really do anything important.

Let us vote for the Castle-Solomon amendment today which represents a real line-item veto and vote down the Democrats' impostor bill.

Mr. CASTLE. Mr. Chairman, I yield 1 minute to the distinguished gentleman from New York [Mr. LEVY].

Mr. LEVY. Mr. Chairman, throughout the congressional district that I represent, taxpayers want the President to have a line-item veto. They do not understand expedited rescission and, when it is explained to them, they think it is a sham.

As a kid I remember saying, when I really did not want to do something, "Let's not and say we did." I never thought Congress, as an institution, would consider saying that.

H.R. 1578 is not a line-item veto. It gives the President little authority that he does not already have. If we pass the bill as proposed, we will be telling constituents who want us to pass a line-item veto "Let's not and say we did."

On the other hand, if we are serious about cutting the deficit, if we are serious about giving the President the same power that virtually every American Governor has, let us pass the Castle-Solomon amendment.

I salute my friend from Delaware and my neighbor from New York for their work on this amendment, and I urge my colleagues to support it.

Mr. DERRICK. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Texas [Mr. STENHOLM].

Mr. STENHOLM. Mr. Chairman, I must respond just a moment to the distinguished minority leader for whom I have a great amount of respect, but I regret that he chose to use the harsh words on the bill that we have proposed today when last year 154 out of 159 Republicans joined in support of the bill, 118 of whom are back this year.

The bill that we have this year is stronger than the one that we had last year, so I would hope we would not categorize that. I would hope that we could keep the debate on the merits of the Solomon bill versus the merits of the Spratt-Stenholm bill and not categorize it.

Because I would choose to use the words of my good friend, the gentleman from New York, what he said about our bill last year:

"For those of you who really believe in line-item veto, we have reached a tremendous compromise here that you can vote for. It should be something that this House can support overwhelmingly."

Now, if the will of the House is not to support your amendment today, I hope those words will be just as good on final passage as they were last year.

Mr. CASTLE. Mr. Chairman, I yield 1 minute to the distinguished gentleman from New York [Mr. SOLOMON].

Mr. SOLOMON. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, let me say to my good friend for whom I have the greatest admiration and respect, I really do, but, you know, we did, and I said that last year in the last days of the session, and it was a compromise, because we were ending the session. There was no chance whatsoever we would ever get any kind of a true line-item veto. So it was a compromise.

We are in the beginning of a new Congress now, and we have a chance to send over to the other body a true line-item veto.

For all freshmen listening out there, you are going to get a second chance if you vote for Solomon-Castle, because we send it over there, it delivers that message that your constituents asked you to come here and deliver to this Congress. Then, if the Senate is sincere, they will pass our true line-item veto. If they are not, they will pass the watered-down version.

If they do that, what happens, Charlie? Then we have got a compromise again. So it comes back to this House, and all of you freshman Democrats will get a second chance next week to pass the watered-down version.

Today vote for Solomon-Castle. You will be doing what you told your constituents you would do.

Mr. DERRICK. Mr. Chairman, I yield 30 seconds to the distinguished gentleman from Texas [Mr. STENHOLM].

Mr. STENHOLM. I thank the gentleman for yielding to me.

Mr. Chairman, I just have to go a little bit further with my good friend from New York [Mr. SOLOMON] because it was not yet the end of the session last year that he made those eloquent words. He made them on July 30, 1992. And the reason he made them then was that we were trying to get something done in time for it to be effective last year.

Now, this is the same position we are in now. If we are going to have this effective and go through the Senate and get it in time to act on this year's appropriation bill, we do not have all this time to act on this year's appropriation bill, we do not have all this time that the gentleman is talking about. We do not have it, no matter how we say it.

We can debate that one on and on, but July 30 was when the statement was made, and it was an excellent statement when the gentleman made it then.

Mr. CASTLE. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Indiana [Mr. BUYER].

Mr. BUYER. I thank the gentleman for yielding to me.

Mr. Chairman, rather than go on with the great speech that I was going to give today, I actually would like to tap on the tail of the debate which was happening here. It happened not only today but what occurred in the last Congress.

Gentleman, I was not there. I was not there. I am a new Member of the Congress. What I did in pledges to come to this Congress was no different than our President, calling for the line-item veto.

I say to the gentleman from Texas [Mr. STENHOLM] I have respected you as a citizen of this country before I came here to the Congress, and I continue in that respect.

And I agree with the gentleman to focus on the merits here. But I am disappointed that the President is not exercising some leadership in really calling it a true line-item veto, which he has had as Governor and now he wants it as President. I think that is what we want to give him.

Even though the Congress has not shown itself to be the fiscally responsible body that it should be, and it does not make any difference who is in the White House, Republican or Democrat, I want to give that measure to them.

Today is a new day. The gentleman is right. All kinds of arguments and fights happened back then. I looked and saw how many of my Republican colleagues voted for the gentleman's measure in the last session; quite a few. So, let us move forward today.

Mr. CASTLE. Mr. Chairman, I yield 2 minutes to the gentleman from Tennessee [Mr. DUNCAN], who has been a real leader in this line-item veto fight for a number of years now.

Mr. DUNCAN. Mr. Chairman, I thank the gentleman for yielding this time to me.

Mr. Chairman, I am pleased to rise in support of this amendment.

I want to commend Mr. SOLOMON and Mr. CASTLE for their valiant work on this.

A few days ago, I heard a speaker on this floor of the House say that the American people did not want more gridlock—they wanted action.

Well, they do not want the kind of action they are getting from this Congress.

They do not want higher taxes.

They do not want increased spending. They want cuts.

They do not want more pork barrel.

They want change—real change.

Instead, what they are getting is more of the same liberalism that got us in the mess we are in today—over \$4 trillion in the hole.

I wish we did not need a balanced budget amendment.

I wish we did not need a line-item veto.

But the fact is that for many years now, the Congress has been unable or unwilling to get spending under control on its own.

Poll after poll has shown that 70 to 80 percent of the American people want the President to have line-item veto power.

And they want him to use it to get rid of wasteful and ridiculous projects.

President Bush endorsed this. Ross Perot endorsed it. President Clinton has, too.

Three years ago I introduced the original Line-Item Veto Act in the 102d Congress.

I did so again this year with H.R. 159.

Senator MCCAIN introduced this same bill in the Senate.

The U.S. Chamber of Commerce endorsed our bill, as did the National Taxpayers Union, and the U.S. Business and Industrial Council.

I am pleased that Mr. SOLOMON and Mr. CASTLE have used the same language in this amendment, which is a simple, two-year trial instead of permanent authority as in my bill.

This is the line-item veto as it exists and is used effectively in most of the 43 States that have it.

This is not a watered down version.

This is the best line-item veto authority, because it makes it tougher for the Congress to override a cut by the President.

Our country would be booming today if we were not so deeply in debt and losing so much money.

We have got to get spending under control.

This amendment will not do it by itself, but if used properly, it will certainly help.

One of our colleagues on the other side is quoted in the paper today as saying he is voting for the Stenholm-Spratt version because he is not for a real line-item veto. That is what this debate is about, whether we are going to pass a real line-item veto act or some fake, charade version of it. I urge my colleagues to support this amendment.

Mr. DERRICK. Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. The gentleman from South Carolina [Mr. DERRICK] has 8 minutes remaining, and the gentleman from Delaware [Mr. CASTLE] has 7 minutes remaining.

Mr. CASTLE. Mr. Chairman, I reserve the balance of my time, as we discussed earlier.

The CHAIRMAN. For what reason does the gentleman from Illinois [Mr. MICHEL] rise?

AMENDMENT OFFERED BY MR. MICHEL TO THE AMENDMENT IN THE
NATURE OF A SUBSTITUTE OFFERED BY MR. CASTLE

Mr. MICHEL. Mr. Chairman, pursuant to the rule, I offer an amendment to the amendment in the nature of a substitute.

The CHAIRMAN. The Clerk will designate the amendment to the amendment in the nature of a substitute.

The text of the amendment to the amendment in the nature of a substitute is as follows:

Amendment offered by Mr. MICHEL to the amendment in the nature of a substitute offered by Mr. CASTLE:

Page 1, strike line 2 and insert the following: "This title may be cited as the 'Enhanced Rescission/Receipts Act of 1993'."

Page 1, line 7, after "1995" insert "or veto any targeted tax benefit within any revenue bill".

Page 1, lines 11, 12, and 15, insert "or veto" after "rescission" each place it appears.

Page 1, line 19, insert "or a revenue bill containing a targeted tax benefit" after "1995".

Page 2, line 4, strike "rescission" and insert "rescission/receipts".

Page 2, line 2, insert "(1)" after "(a)" and after line 10 add the following:

(2) Any provision of law vetoed under this Act as set forth in a special message by the President shall be deemed repealed unless, during the period described in subsection (b), a rescission/receipts disapproval bill restoring that provision is enacted into law.

Page 2, line 8, 12, and 13, strike "rescission" each place it appears and insert "rescission/receipts".

Page 2, line 18, insert "or veto" after "rescission".

Page 2, strike line 22 and all that follows thereafter through page 3, line 2, and insert the following:

(1) The term "rescission/receipts disapproval bill" means a bill or joint resolution which—

(A) only disapproves a rescission a budget authority, in whole, rescinded, or

(B) only disapproves a veto of any provision of law that would decrease receipts,

in a special message transmitted by the President under this Act.

(2) The term "calendar days of session" shall mean only those days on which both Houses of Congress are in session.

(3) The term "targeted tax benefit" means any provision which has the practical effect of providing a benefit in the form of a differential treatment to a particular taxpayer or a limited number of taxpayers, whether or not such provision is limited by its terms to a particular taxpayer or a class of taxpayers. Such term does not include any benefit provided to a class of taxpayers distinguished on the basis of general demographic conditions such as income, number of dependents, or marital status.

Page 3, line 4, insert "or vetoes any provision of law" after "authority".

Page 3, line 7, insert "or the provision vetoed" before the semicolon.

Page 3, line 11, insert "or veto any provision" after "authority".

Page 3, line 14, insert "or veto" before the semicolon.

Page 3, line 16, insert "or veto" after "rescission" each place it appears.

Page 4, strike lines 4 through 6 and insert the following:

(c) REFERRAL OF RESCISSION/RECEIPTS DISAPPROVAL BILLS.—Any rescission/receipts disapproval bill introduced with respect to a special message shall be referred to the appropriate committees of the House of Representatives or the Senate, as the case may be.

Page 4, lines 8 and 10, strike "rescission" each place it appears and insert "rescission/receipts".

Page 5, line 3, strike "rescission" the first time it appears and insert "rescission/receipts".

Page 5, line 4, strike "budget authority" and insert "of budget authority or veto of the provision of law".

Page 5, line 6, strike "rescission" and insert "rescission/receipts".

The CHAIRMAN. The gentleman from Illinois [Mr. MICHEL] will be recognized for 15 minutes, and a Member opposed will be recognized for 15 minutes.

Mr. ROSTENKOWSKI. Mr. Chairman, I am opposed to the amendment to the amendment.

The CHAIRMAN. The gentleman from Illinois [Mr. ROSTENKOWSKI] will be recognized for 15 minutes.

The Chair recognizes the gentleman from Illinois [Mr. MICHEL].

Mr. MICHEL. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise today to offer my amendment to the real legislative line-item veto proposal offered by my colleagues, the gentleman from Delaware [Mr. CASTLE], and the gentleman from New York [Mr. SOLOMON], which deals only with appropriations. My amendment adds an additional dimension to the debate.

Should the President be allowed to strike special-interest tax provisions from tax bills, in addition to appropriations from appropriation bills?

I believe that the President should be given this additional authority.

I am amazed and obviously very gratified that this issue has gained so much momentum.

I began the drumbeat earlier this year after seeing the number of special-interest tax provisions contained in last year's tax bill, H.R. 11.

That bill was vetoed by President Bush due to the sheer weight that it gained through the legislative process here in the Congress.

As you know, that bill initially was the vehicle for the enterprise zone provisions in response to the Los Angeles riots.

By the time it was on the President's desk, it was a huge bill containing over 50 special-interest provisions.

My understanding is that the cost of the special-interest provisions exceeded the cost of the supposed cornerstone of that bill—the enterprise zone provisions that we all thought was the real reason for our having considered that particular tax bill.

Several weeks ago, during initial consideration of this matter, a group of freshmen Members on the Democratic side of the aisle asked that an amendment be made in order to the base bill that included Presidential authority to repeal tax expenditures.

There was also an effort by members of the Appropriations Committee to give the President such authority.

They, like myself, have been precluded from raising the tax issue in regard to the base bill, H.R. 1578, that we are considering here today and was offered by Mr. SPRATT.

So, unfortunately, we are limited today to debate this issue only in the context of the Republican substitute to H.R. 1578, and not to the base bill itself.

Now, you are going to hear several arguments why you should not vote for my amendment.

You will hear that it is uncertain what I mean by the term "targeted tax benefits."

Well, I can assure you, I know one when I see one, and so do you.

I am talking about special interest tax items, tax pork, tax loopholes, tax carve-outs, Members' projects, special tax exemptions, et cetera, et cetera.

I am talking about tax goodies, the kind of things the insiders get in abundance and the regular taxpayers get it in the neck.

I am talking about a wink and a nod and a nudge and all the other political insider body language that says, "Give me a break because I'm somebody special."

There are big, big bucks associated with these sweetheart tax provisions, believe me. If you agree that the President should not be held hostage to special interests in tax bills, as well as appropriation bills, then support my amendment today.

When we see that whopping big tax bill coming down the pike later this year, you better believe that it is going to be loaded with lots of tax goodies if it is going to get any mileage in either one of the bodies of the Congress.

In order to get the votes to pass it, I can assure you, as I said, that members on the committee, particularly the chairmen, are going to be under immense pressure to do just these kind of things that ought not to be done.

I will agree to sit down with the chairman of the Ways and Means Committee, my good friend, the gentleman from Illinois [Mr. ROSTENKOWSKI] and our staffs to carefully review the tax

package that is reported later this year, in order to identify the special interest tax provisions.

My amendment would add some accountability in the tax area, as is provided to the appropriations area in the Castle-Solomon amendment.

The second argument that you will hear against my amendment is that it raises constitutional questions.

Well, when these constitutional questions arose during my testimony before the Government Operations Committee, I contacted a well-regarded constitutional expert, Mr. Bruce Fein, for his opinion on the matter.

I would like to quote from a March 16 letter that I received from him relative to the bill I introduced, H.R. 493, which for all practical purposes is the text of this amendment that I am offering today, and deals with targeted tax provisions. This is what he said:

"The purpose of the President's targeted tax authority is unquestionably legitimate: to assist attacking ballooning budget deficits. The method is plainly adapted to that end: enabling the President to veto only the mischievous portions of a revenue bill that he might otherwise sign because of offsetting attractions. The authority does not usurp legislative power. Congress may override a targeted veto. Further, at any time, it may by legislation rescind the President's targeted veto power. Moreover, insofar as the bill delegates legislative revenue power to the President, it contains sufficient standards to guide the exercise of delegation to pass constitutional muster.

"See *Mistretta v. U.S.* (1989); *Synar v. U.S.*, 626 F. Supp. 1374, affirmed on other ground, 478 U.S. 714 (1986)."

Now, on these grounds, I believe that I have a legitimate legal and constitutional basis upon which to offer my amendment.

I would like to reiterate once more that I believe the President of either party should have the option to get at special interest provisions in both appropriations and tax bills.

It is a good management tool, both on the appropriations side and on the tax side. It is not one of those issues, quite frankly, that divides along political lines. I have heard Members in the earlier debate mentioning, conservative Members on my side who have an absolute opposition to a line-item veto, and I respect them for their feelings on that score.

People ask me, "BOB, why would you give up your legislative authority to an all-powerful Chief Executive?"

I will say, "Because we have loused it up here in the Congress. That is why."

If 43 Governors have got this power to use to good advantage, then why should we not give it to the President of the United States? And when Jimmy Carter was President, I said:

"If you don't want to give him authority for a complete line item veto, give him at least authority to reduce items by some arbitrary figure, 10, 15, 50 percent, if you want to hold on jealously to your power."

But it is a management tool to try and save some bucks around here and I am willing to give that to President Clinton, President Carter, as I proposed earlier on, and yes, certainly my own Presi-

dent. I do not want to hamstring any President to the degree that they would not have their kind of ability to use a good management tool that 43 of our Governors are currently using to their advantage.

Quite frankly, if you are for special interests, then vote against my amendment today. If you are for a more complex Tax Code, then vote against my amendment.

Now, if you believe that the President should not be held hostage to special interests, then I say vote for my amendment today. It will make this a better piece of legislation.

My only regret is that under the rule that we debated earlier on, I only get the opportunity to offer our amendment to the amendment. That is the way we get treated sometimes over here on the Republican minority side, as distinguished from being able to offer our amendment both to a base bill and to the Republican substitute. In the old days, we'd have a substitute, and amendments in the second degree. We do not do that anymore around here because the House is no longer a legislative body in the true sense of the word. We get dictated to by the Rules Committee. It is either up or down, an hour for, an hour against. "Let's get out of here and go home."

We have Monday and Friday off, and people wonder, what is this? Oh, we must refine it, call it a District Work Period to justify the absences.

So it is unfortunate that this is what this body has been relegated to, but you still have an opportunity here. I think our arguments are on good sound ground. I would certainly appreciate the support of Members on either side of the aisle who are persuaded that our cause is right.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN pro tempore (Mr. OBERSTAR). The gentleman from Illinois [Mr. MICHEL] has consumed 9 minutes.

The Chair recognizes the gentleman from Illinois [Mr. ROSTENKOWSKI].

Mr. ROSTENKOWSKI. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in opposition to the amendment offered by Mr. MICHEL, which would allow the President to rescind tax measures through what is effectively a line-item veto.

On its face, the Michel amendment would appear to be limited to certain so-called targeted tax benefits. However, the amendment is so broadly drafted that it could actually apply to almost any tax provision, small or large, increase or decrease.

The Michel amendment applies, and I quote from the amendment, to "any provision which has the practical effect of providing a benefit * * * to a particular taxpayer or a limited number of taxpayers." There are about 115 million income tax returns filed every year. What is a limited number; 1 million, 10 million, 50 million?

Arguably, almost any tax provision applies to a limited number of taxpayers. For instance, the research and development tax credit applies only to taxpayers with research and development. The home mortgage interest deduction applies only to homeowners. The targeted jobs tax credit benefits only certain employers.

In addition, the proposal is so broad that it might even be interpreted to apply to tax increases, since a tax increase applied to one group of taxpayers might have the "practical effect of providing * * * differential treatment" to some other limited number of taxpayers.

In short, almost any tax provision passed by the Congress could be viewed by the executive branch to be subject to rescission under the Michel amendment. This broad transfer of power to the President has significant implications for the relative powers of the executive and legislative branches under our Constitution and raises serious constitutional questions that should give this House great pause.

The Michel amendment raises serious constitutional questions. The vesting of the power of the purse in the hands of the elected representatives of the people lies at the very heart of representative Government in the Anglo-American tradition. The amendment under consideration today would be a giant step backward from the English Bill of Rights, which in 1689 finally settled centuries of struggle between the Crown and the Parliament by eliminating the Crown's ability to impose taxation and by giving the pursestrings exclusively to the elected representatives of the people.

In the United States, the Constitutional Convention adopted this model. Article 1 of the Constitution requires that all revenue measures originate in the House of Representatives. However, the Michel amendment would effectively allow the executive branch to originate tax measures by unilaterally rewriting the tax laws that are passed by the Congress.

Moreover, the Michel amendment raises additional constitutional concerns as a delegation of the taxing authority to the executive branch. The first power granted to the Congress, and exclusively to the Congress, in article 1 of the Constitution is the power to lay and collect taxes.

I would point out that in every relevant case to come before it, the Supreme Court has recognized that there are limits of delegation which there is no constitutional authority to transcend. As recently as 1989, the Supreme Court reaffirmed its longstanding principle that the delegation of the Congress' taxing powers violates the constitutional requirement of separation of powers if the Congress does not provide clear standards which would allow a court to determine whether the will of the Congress has been obeyed.

The Court has struck down as unconstitutional the delegation of legislative authority to the President where the Congress established no standard and did not define the circumstances and conditions under which the President could exercise the delegated authority.

Under the Michel amendment, because the President would have complete discretion to pick and choose which so-called targeted tax benefits would be rescinded, there effectively would be no standard, no requirements, and no definition of circumstances and conditions for exercising the delegation of the taxing power. There is serious doubt whether such a delegation of the Congress' taxing powers would pass constitutional muster.

I admit that I do not know the answers to all of the constitutional questions that can be raised, but I do know that before we dramatically shift the balance of power in this area—which is the fundamental power of the people in a democracy—we had better be sure of the answers.

I would also point out, Mr. Chairman, that our Federal tax system, which we relied on to collect over \$1 trillion in revenues last year, is almost entirely dependent upon the voluntary compliance of the American people.

Because of this reliance, our tax system must be fair. There is no getting around the fact that one of our greatest responsibilities as Members of the House of Representatives is to ensure that taxpayers of this Nation obtain fair treatment under the tax laws.

The Congress passes legislation after public hearings, markups, floor debate in both bodies, and conference. Through this process, Members from across the Nation, representing all geographic regions and the rich diversity of our society, have the ability to influence the law. It is through this process that every taxpayer can be assured that his or her interests have been heard, and that his or her needs have obtained a response.

Mr. Chairman, the President should execute tax laws that we in the Congress carefully craft. The American people demand, and deserve, fairness in the tax law. This fairness can only come from the careful, painstaking legislative process of House and Senate action—there are no shortcuts to fairness. And without fairness, our system cannot and will not work.

Mr. Chairman, I would also note that the rescission authority provided in this amendment could generate enormous controversy as to whether or not the rescission was valid, and leave the tax law in a state of confusion. The House of Representatives itself would probably end up in court attempting to show why the rescission authority does, or does not, apply in a particular instance.

In summary, Mr. Chairman, the implications of this amendment are far reaching and disturbing. I urge my colleagues in the strongest possible terms to reject the Michel amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. MICHEL. Mr. Chairman, I yield such time as he may consume to the gentleman from Florida [Mr. LEWIS].

Mr. LEWIS of Florida. Mr. Chairman, I rise in strong support of the Michel amendment, which, along with the Castle-Solomon amendment, would make this a true line-item veto.

Make no mistake, the Democrat leadership rescission bill is nothing more than political cover.

It is not a line-item veto. In fact, many Members on record as opposing a line-item veto will support this expedited rescission.

During the campaign, President Clinton did not ask for an expedited rescission, he asked for a line-item veto.

I dare say that many in this Congress also made the same commitments.

The American people know that this Congress has lacked fiscal discipline, and they do not trust this particular fox to watch the chicken coop.

Eighty percent of the American people want a line-item veto. It is time to represent their needs over the special interests who benefit from this pork barrel spending.

Support a true line-item veto. Support the Michel amendment and the Castle-Solomon amendment.

Mr. MICHEL. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania [Mr. CLINGER].

Mr. CLINGER. Mr. Chairman, I have already expressed my support for the Castle-Solomon amendment as a meaningful substitute to the weaker Spratt-Stenholm compromise. I also support Mr. MICHEL'S amendment to the Castle-Solomon substitute which adds authority for the President to repeal targeted tax benefits contained in revenue bills.

I agree with the minority leader that it is important that the President be able to single out both excessive and unnecessary spending, and special sweetheart tax provisions for an individual vote. Often such provisions are buried in large bills and Members may not even be aware of each of these individual provisions when they vote on an omnibus bill. The American people hear of these special tax give-aways only after they take effect and they are outraged at the arrogance of Congress to give special deals to special friends. A meaningful way to strike these provisions from omnibus tax bills is one way for the Government to reclaim the respect of the American people.

This authority coupled with the greater authority in the Castle-Solomon alternative would provide the President with real power, not artificial power, not weak power, real power to curb unnecessary spending and wasteful, targeted tax expenditures. This is the type of power being called for daily by the American people, and I urge its adoption.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 2 minutes to the gentleman from Texas [Mr. STENHOLM].

Mr. STENHOLM. Mr. Chairman, I rise today to commend the respected minority leader for raising an important issue in the larger line-item veto debate, but to urge caution in taking this step prematurely.

Line-item veto authority has been debated for many, many years—long enough, as was mentioned on the floor yesterday, for the American people to have a grasp of what it is all about. The issues of balance of power, constitutionality, procedures for rescissions, and so forth have long been in the marketplace of ideas and debate.

On the other hand, only very recently have the ideas of tax expenditures and contract authority been added to this debate. I believe that these two issues, tax expenditures and contract authority, very rightfully belong in the rescission debate. I am very eager to explore these concepts personally. I want to hear others with greater constitutional and institutional expertise than I debate the nuances of including tax expenditures and contract authority in rescission authority.

For example, Mr. Chairman, some have expressed to me a concern that this amendment, the Michel amendment, might actually make it easy for a President to raise taxes, not to cut, but to raise, and I think that bothers a lot of people around this country. It may

or may not do so. The point is we have not had the hearings, we have not had the looking into this particular question to the degree that we need to.

In fact, Mr. Chairman, I personally am considering legislation embodying these two concepts and would like to get it referred to the appropriate committees, the Committee on Government Operations and the Committee on Ways and Means, to look at the concept. I think it is highly possible that 2 years from now, when we consider renewing the contract on this legislation, assuming we pass something today, I will be prepared to vote for revisions of this sort.

At this point, however, I do not believe the debate has matured to the point where we should be attaching these unexplored ideas to legislation which is likely to be signed into law.

Therefore, Mr. Chairman, I oppose this amendment today on its merits. It needs much more thoughtful study, both to the amendment before us, as well as to the amendment, the modified line-item veto, which we hope passes later today.

PARLIAMENTARY INQUIRY

Mr. MICHEL. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN pro tempore (Mr. DE LA GARZA). The gentleman will state it.

Mr. MICHEL. Mr. Chairman, do I have the right to close on my side being the author of my amendment?

The CHAIRMAN pro tempore. The gentleman from Illinois [Mr. MICHEL], the author of the amendment, has the right to close.

Mr. MICHEL. And we only have 3 minutes remaining, I believe.

The CHAIRMAN pro tempore. The gentleman from Illinois [Mr. MICHEL] has 4 minutes remaining. The gentleman from Illinois [Mr. ROSTENKOWSKI] has 5 minutes remaining.

Mr. MICHEL. Mr. Chairman, I yield myself such time as I may consume to respond quickly because our amendment is drafted finitely enough to foreclose any kind of opportunity for the President under my amendment to raise taxes. The gentleman from Illinois [Mr. ROSTENKOWSKI] is so right. Under the Constitution that is a prerogative of the House. I understand that, I respect that, and in no way would I want to abridge that kind of constitutional right of the House of Representatives. My amendment is narrowly defined to simply give the President an opportunity to cut back on what he would consider, trinkets in a tax bill.

So with that, Mr. Chairman, I will withhold until the remaining time is used on the other side, and I will then yield the balance of whatever time we have left after the last speaker to the gentleman from Louisiana [Mr. LIVINGSTON].

The CHAIRMAN pro tempore (Mr. DE LA GARZA). The gentleman from Illinois [Mr. MICHEL] reserves 3½ minutes.

Mrs. KENNELLY. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. MATSUI].

Mr. MATSUI. Mr. Chairman, I thank the gentlewoman very much for yielding this time to me.

Mr. Chairman, I know what the gentleman's intent is with this amendment. His intent is to try to eliminate rifle shots.

Perhaps if there is a provision for a particular company or a particular individual, he would want to give the President authority to take that away by rescission power. Unfortunately, I believe the gentleman's proposal is a little too broad, significantly too broad. It is almost as if you were using a sledgehammer to go after a gnat. I understand what he is trying to do, but I believe the gentleman from Illinois [Mr. ROSTENKOWSKI] and others who have spoken on the floor on this issue realize that it would affect R&D credits and the home mortgage interest deduction. It would also affect the earned income credit, which is a credit for lower and middle income people which we are going to be developing in this tax legislation.

And contrary to what the gentleman from Illinois [Mr. MICHEL] has indicated, it could have the practical effect, depending on the interpretation, of resulting in a tax increase. For example, if you do something with respect to stock insurance companies that would then provide a differential treatment for a limited class of taxpayers which in turn could have an impact on mutual fund taxpayers, it thereby would give the President the authority, if one would read the clear language of this legislation, to increase taxes on those who had mutual funds.

So this is a very, very dangerous amendment. I understand the gentleman's intent. At the same time, the reality of this will really raise some havoc. In addition to this, as many people know, in the Tax Code we try to have balance so that all income tax groups have a certain balance in terms of what they might pay. Unfortunately, this proposal could create havoc and imbalance in the Tax Code.

So, Mr. Chairman, I urge opposition to the Michel amendment.

Mrs. KENNELLY. Mr. Chairman, I yield myself the balance of the time remaining on this side.

The CHAIRMAN pro tempore. The gentlewoman from Connecticut [Mrs. KENNELLY] is recognized for 3 minutes.

Mrs. KENNELLY. Mr. Chairman, I am very much opposed to the Michel amendment. I do not believe that the idea of including tax provisions in the proposed rescission process is a well-conceived idea, and ought to be rejected by this House.

Almost any tax provision could be argued to be a targeted tax benefit in that it can apply only to a limited number of taxpayers. Not all taxpayers will be in the position to use the investment tax credit, for example, that President Clinton wants to use to promote economic investment.

Take the Mortgage Revenue Bond Program as another example. There were 401 Members of this House who cosponsored legislation to extend this critical program last year. Yet this amendment would allow the MRB program to be rescinded because it is limited to first time home buyers. There are 115 million taxpayers in the United States, yet the MRB program only helped 120,000 families last year.

The research and development tax credit would apply only to taxpayers who do R&D, and only to those who do it within the eligibility definitions contained in the bill. Others would not get the benefit, so that is a limited number of taxpayers.

The Ways and Means Committee often carefully balances a tax bill based on distributional considerations, trying to protect the poor and middle class from the effects of the bill as much as pos-

sible. The earned income tax credit for the working poor is an example, and to the extent that could be dropped through this process it would dramatically disturb the balance of the bill.

In addition, the committee sometimes tries to simplify the Tax Code for taxpayers through rewriting a whole section of the code. Since there are usually some taxpayers in every conceivable tax situation, there are inevitably winners and losers under a provision whose primary goal is simplification. Does this mean that a revenue neutral provision could be rescinded because it contains a tax expenditure for the winners? Or does it mean that the provision could be rescinded only to the extent that it applies to the winners?

I believe the only thing you will get by passage of this amendment is increased taxpayer dissatisfaction with Government. When we are contemplating tax policy changes, the Ways and Means Committee establishes an effective date so that all taxpayers will have notice and are not caught in the middle of a transaction. To the extent these dates can be deleted or changed as a result of this amendment before us, you are going to see an exponential increase in litigation as taxpayers argue about whether transactions are governed by old law or new law. The Tax Court is backed up enough with cases, this serves no purpose. I urge my colleagues to oppose the Michel amendment.

Mr. Chairman, I yield back the balance of my time.

Mr. MICHEL. Mr. Chairman, I yield the balance of my time to the gentleman from Louisiana [Mr. LIVINGSTON] to close debate on the amendment.

The CHAIRMAN pro tempore. The gentleman from Louisiana is recognized for 3½ minutes to close debate on the amendment.

Mr. LIVINGSTON. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I also regret that we cannot evaluate this very important amendment as a free-standing amendment to the base bill, but I do rise in strong support of the Michel amendment to provide the President with the authority to strike—and I stress the word “strike”—targeted tax benefits from revenue bills. It does not need study. It just makes plain sense.

Mr. Chairman, the press and numerous congressional watchdogs inside and outside this institution criticize the pork-barrel spending contained in the 13 appropriations bill. But attention is rarely focused on the hundreds of special interest tax breaks for favored constituents or industries often written into annual reconciliation or tax bills that we pass every year.

These targeted tax breaks cost the Treasury millions of dollars every year and they largely escape the scrutiny of Members and groups who monitor Government waste. For example, the infamous 1990 Budget Enforcement Act provided special tax treatment for taxicabs, insurance companies doing business abroad, cigar manufacturers, a small winery, a small brewery, ethanol producers, and crop dusters. Members of the tax committees tuck these special interest provisions into hundred-page reconciliation bills that are rushed to the floor without adequate review. The lost revenue from the targeted tax exemptions and loopholes must be restored by increasing the taxes of those who do not have a friend on the tax-writing committees.

As a member of the Appropriations Committee, I want to dispel the myth that our committee is the sole refuge for pork-barrel spending and the main scapegoat for the deficit. Only 35 percent of the total Federal budget is made up of discretionary spending subject to the annual appropriations process. The remainder of the budget is mandatory spending, entitlement, or appropriated entitlement that cannot be easily adjusted without changing the authorizing legislation.

If the Appropriations Committee is going to come under the scrutiny of the line-item veto, it is only fair to provide this very same degree of scrutiny to the tax committees. In fact, all taxing and spending activities of Congress should share in the procedural reform to reduce the deficit. Let us attack the deficit by checking the special interests in appropriations and in revenue bills. I strongly urge my colleagues to support the Michel amendment, in conjunction with Castle-Solomon, to veto special interest tax provisions.

The CHAIRMAN pro tempore. The gentleman from Louisiana [Mr. LIVINGSTON] has not consumed all his time.

Does the gentleman from Illinois [Mr. MICHEL] yield back the balance of his time?

Mr. MICHEL. I do, Mr. Chairman.

The CHAIRMAN pro tempore. All time has expired.

The question is on the amendment offered by the gentleman from Illinois [Mr. MICHEL] to the amendment in the nature of a substitute offered by the gentleman from Delaware [Mr. CASTLE].

The question was taken; and the Chairman pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mrs. KENNELLY. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 257, noes 157, not voting 22, as follows:

[Roll No. 145]

AYES—257

Allard	Blute	Cooper
Andrews (NJ)	Boehlert	Coppersmith
Archer	Boehner	Cox
Armey	Bonilla	Crane
Bacchus (FL)	Bunning	Crapo
Bachus (AL)	Burton	Cunningham
Baesler	Buyer	Deal
Baker (CA)	Byrne	DeFazio
Baker (LA)	Callahan	DeLay
Ballenger	Camp	Derrick
Barcia	Canady	Deutsch
Barrett (NE)	Cantwell	Diaz-Balart
Barrett (WI)	Carr	Dickey
Bartlett	Castle	Dicks
Bateman	Chapman	Dooley
Beilenson	Clement	Doolittle
Bentley	Clinger	Dornan
Bereuter	Coble	Dreier
Bilbray	Collins (GA)	Duncan
Bilirakis	Combest	Dunn
Bliley	Condit	Edwards (TX)

Emerson	Kolbe	Regula
English (OK)	Kyl	Richardson
Everett	LaFalce	Ridge
Ewing	Lambert	Roberts
Fawell	Lantos	Roemer
Fingerhut	LaRocco	Rogers
Fish	Laughlin	Rohrabacher
Ford (TN)	Lazio	Ros-Lehtinen
Fowler	Leach	Rose
Frank (MA)	Lehman	Roth
Franks (CT)	Levy	Roukema
Franks (NJ)	Lewis (CA)	Rowland
Gallegly	Lewis (FL)	Royce
Gallo	Lightfoot	Sabo
Gekas	Linder	Santorum
Geren	Livingston	Saxton
Gilchrest	Long	Schaefer
Gillmor	Machtley	Schenk
Gilman	Mann	Schiff
Gingrich	Manzullo	Schroeder
Glickman	Mazzoli	Schumer
Goodlatte	McCandless	Sensenbrenner
Goodling	McCloskey	Sharp
Goss	McCollum	Shaw
Grams	McCrery	Shays
Grandy	McCurdy	Shepherd
Greenwood	McDade	Shuster
Gunderson	McHugh	Skeen
Gutierrez	McInnis	Skelton
Hall (TX)	McKeon	Slattery
Hamilton	McMillan	Smith (IA)
Hancock	Meehan	Smith (MI)
Hansen	Meyers	Smith (NJ)
Harman	Mica	Smith (OR)
Hastert	Michel	Smith (TX)
Hefley	Miller (FL)	Snowe
Herger	Minge	Solomon
Hinchey	Molinari	Spence
Hoagland	Montgomery	Stearns
Hobson	Moorhead	Stump
Hoekstra	Moran	Stupak
Hoke	Morella	Sundquist
Horn	Murphy	Swett
Houghton	Myers	Talent
Huffington	Nadler	Tanner
Hughes	Neal (NC)	Tauzin
Hunter	Nussle	Taylor (MS)
Hutchinson	Obey	Taylor (NC)
Hutto	Orton	Thomas (CA)
Hyde	Oxley	Thomas (WY)
Inglis	Packard	Torkildsen
Inhofe	Pallone	Upton
Istook	Parker	Vucanovich
Johnson (CT)	Paxon	Walker
Johnson (GA)	Penny	Walsh
Johnson (SD)	Peterson (MN)	Weldon
Johnson, Sam	Petri	Williams
Johnston	Pombo	Wilson
Kasich	Pomeroy	Wolf
Kim	Porter	Yates
King	Poshard	Young (AK)
Kingston	Pryce (OH)	Young (FL)
Klein	Quinn	Zeliff
Klug	Ramstad	Zimmer
Knollenberg	Ravenel	

NOES—157

Abercrombie	Gordon	Pastor
Ackerman	Green	Payne (NJ)
Andrews (ME)	Hall (OH)	Payne (VA)
Andrews (TX)	Hamburg	Peterson (FL)
Applegate	Hastings	Pickett
Barlow	Hayes	Pickle
Bevill	Hefner	Price (NC)
Bishop	Hilliard	Rahall
Blackwell	Hochbrueckner	Rangel
Bonior	Holden	Reed
Borski	Hoyer	Reynolds
Boucher	Inslee	Romero-Barcelo (PR)
Brewster	Jacobs	Rostenkowski
Brooks	Jefferson	Rush
Browder	Johnson, E. B.	Sanders
Brown (CA)	Kanjorski	Sangmeister
Brown (FL)	Kaptur	Sarpalius
Brown (OH)	Kennelly	Sawyer
Bryant	Kildee	Scott
Cardin	Klecza	Sisisky
Clay	Klink	Skaggs
Clayton	Kopetski	Slaughter
Clyburn	Kreidler	Spratt
Coleman	Lancaster	Stenholm
Collins (IL)	Levin	Stokes
Collins (MI)	Lewis (GA)	Strickland
Conyers	Lipinski	Studds
Costello	Lloyd	Swift
Coyne	Lowey	Synar
Cramer	Maloney	Tejeda
Danner	Manton	Thompson
Darden	Margolies-Mezvinsky	Thornton
de la Garza	Markey	Thurman
DeLauro	Martinez	Torricelli
Dingell	Matsui	Trafigant
Dixon	McHale	Tucker
Durbin	McKinney	Underwood (GU)
Edwards (CA)	McNulty	Unsoeld
Engel	Meek	Valentine
English (AZ)	Menendez	Velazquez
Eshoo	Mfume	Vento
Evans	Miller (CA)	Visclosky
Fazio	Mineta	Volkmer
Fields (LA)	Mink	Waters
Filner	Moakley	Watt
Flake	Mollohan	Waxman
Ford (MI)	Murtha	Whitten
Frost	Natcher	Wise
Furse	Neal (MA)	Woolsey
Gejdenson	Norton (DC)	Wyden
Gephardt	Oberstar	Wynn
Gibbons	Olver	
Gonzalez	Owens	

NOT VOTING—22

Barton	Foglietta	Serrano
Becerra	Henry	Stark
Berman	Kennedy	Torres
Calvert	McDermott	Towns
de Lugo (VI)	Ortiz	Washington
Dellums	Pelosi	Wheat
Faleomavaega (AS)	Quillen	
Fields (TX)	Roybal-Allard	

The Clerk announced the following pair:

On this vote:

Mr. Calvert for, with Mr. Dellums against.

Mr. STRICKLAND changed his vote from "aye" to "no."

Mrs. ROUKEMA, Mr. JOHNSON of South Dakota, Messrs. DEUTSCH, McCURDY, LAROCO, RICHARDSON, ENGLISH of Oklahoma, and NADLER, Ms. SCHENK, Mr. GUTIERREZ, Mr. KLEIN, Ms. SHEPHERD, Mr. SCHUMER, and Mr. POMEROY changed their vote from "no" to "aye."

So the amendment to the amendment in the nature of a substitute was agreed to.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. McDERMOTT. Mr. Chairman, during rollcall vote No. 145 on the Michel amendment to the Castle amendment I was unavoidably detained. Had I been present I would have voted "no".

The CHAIRMAN pro tempore (Mr. DE LA GARZA). The gentleman from Delaware [Mr. CASTLE] has 7 minutes remaining, and the gentleman from South Carolina [Mr. DERRICK] has 8 minutes remaining.

The Chair will recognize Members on either side of the aisle, alternating. The gentleman from South Carolina [Mr. DERRICK], the author of the bill, has the right to close.

The Chair recognizes the gentleman from Delaware [Mr. CASTLE].

Mr. CASTLE. Mr. Chairman, I yield 1 minute to the distinguished minority leader, the gentleman from Illinois [Mr. MICHEL].

Mr. MICHEL. Mr. Chairman, I want to first thank Members for the unanimous vote on this side in support of my amendment, but also the 87 Democrats on the other side who also felt, as we did, that we had an amendment worthy of support. It says something about the sentiment in this body with respect to the concept of my amendment, applying the line item veto to tax bills in addition to appropriation bills.

The other point I have to make, that the point is not lost, how this side can get rather rude, blued, and scratoed by the rules in effect by making my amendment applicable only to Castle-Solomon, as distinguished from making it applicable to both bills.

I think we can gauge the sentiment around here of what will ultimately happen, but just to point out, to underscore the point, it is kind of like what happened over in the other body a week or so ago when Senator BYRD said, "You can have this amendment, you can have that amendment, because I know in the end I am going to sweep you all off the board."

That is probably exactly what is going to happen today. But this is just a reminder, particularly for those of the Democrats who supported this. I hope we can get this House to change enough to open up the rules to give us all an opportunity from time to time to make our case and get an up or down vote, because that truly, then, reflects the will of this House.

While for the moment we savor the victory, we know full well what may happen in the end, but it is an argument for certainly supporting Castle and Solomon. If the Members like what they just

did, it will only be incorporated in their amendment, and I would urge the Members to vote for that amendment when it comes up.

Mr. DERRICK. Mr. Chairman, I yield such time as he may consume to the gentleman from South Dakota [Mr. JOHNSON].

Mr. JOHNSON of South Dakota. Mr. Chairman, I rise in opposition to the amendment and in support of the general bill.

Mr. DERRICK. Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. FAZIO].

Mr. FAZIO. Mr. Chairman, as a member of the Committee on Appropriations I have to tell the Members this is probably one of the most difficult votes that I have been asked to cast here. I am from a committee that has a lot of pride in the work product that we put out on an annual basis. Since 1945 our committee has actually appropriated \$200 billion less than we have been asked to spend by various Presidents.

When we look at the process of using the line item veto or the blue pencil, as the rescission process currently in place, we see that our committee has consistently exceeded those requirements made by Presidents on us. In other words, we have given back to Presidents more dollars than they have requested of us in the rescission process. The taxpayer has been well served.

I am not one who is convinced, that by enhanced rescission, we are going to do anything about deficits. I think all of us have to own up to the fact that they are truly growing in the entitlement section of our budget, not in the line item portion, which today, for domestic discretionary spending, is down to 16 percent of the total budget.

Having said that, I stand here in support of this effort, in opposition to the amendments, but in support of the efforts that the gentleman from South Carolina [Mr. SPRATT], the gentleman from Texas [Mr. STENHOLM], and others have brought before us.

We have a perception problem we have to deal with, and what better way to deal with it than incrementally, truly in a conservative way, by allowing an experiment to see whether or not we can find ways to restore public confidence in an institution that they believe is out of control.

There is a belief that pork barrel spending goes on here. I think it is perceived to be far greater than it is in real terms. It has probably been pointed out several times today that the so-called Lawrence Welk Home in North Dakota was an authorized project, not one perpetrated on this body or the other body by the appropriators.

I do think we have to step forward and meet public concern halfway, and that is what we are doing here. We are doing it in a way that protects the essence of the relationship between the executive and legislative branch.

It is worth giving it a try, because we cannot continue simply to recite the facts to ourselves and assume the public understands.

I want to congratulate the members of our committee who have worked to find common ground here. We will have an opportunity to provide an alternative approach, as long as it is written to cut at least as much money as is proposed to be eliminated by the executive branch.

I want to say to Members who believe this is the panacea, that his is the solution, I hope you are not going to be disappointed when we come up with a relatively small amount of money on an annual basis. But if we can make this experiment work and we can find the courage to extend it another term or two, we may begin the process of restoring public confidence in the institution in a way that will give us an opportunity to continue to provide leadership in areas of new investment where the Government of this country has run other kinds of deficits, human deficits, for example. If we do not have the courage to change periodically and accommodate the reality of what the world thinks of us, what the American people, our constituents, think of us, we are going to continue down a road that will not build confidence and will, in fact, further undermine our image, which is at an all time low—and we will understand that—across this land.

So I say that as an appropriator who does believe we on our committee have done our job, that it is an appropriate thing today to vote "aye" on this bill, unamended, without the encumbrance of a two-thirds vote, which will only return gridlock to this institution. Defeat the efforts to bring an end to majority rule but give change a chance for the good of this institution.

Mr. Chairman, I rise in support of H.R. 1578, the Expedited Revisions Act. This bill is by no means the answer to our deficit reduction problems. But it does give us the chance to examine and test our current spending process, as we try to reduce Government spending.

On February 17, President Clinton revealed his plan for economic recovery to the American people and to Congress. In it, he outlined a 5-year program for economic stimulation, investment, and renewal—a new strategy of long-term investment that nets us a return on our money, as we move toward economic growth. Since that evening when the President presented us with his bold blueprint for healing and revitalizing our ailing economy, I have received hundreds of letters from constituents expressing their views about his plan for the country. One opinion that is echoed by people all over the Third Congressional District, from Rio Vista to Red Bluff, is that before Congress considers any plan to increase spending and revenues we must attack Government spending.

In response to these concerns, both Houses of Congress recently passed budget resolutions for the upcoming fiscal year—resolutions that include an additional \$63 billion in cuts over and beyond those proposed by the President in his budget. Today, we are given another opportunity to tackle both the budget and the deficit when we vote on H.R. 1578, which will give the President the authority to highlight and eliminate unnecessary spending. I would therefore like to take this opportunity to commend Chairman DERRICK of the Legislative Process Subcommittee of the House Rules Committee, as well as the committee members and staff, for their efforts in bringing this bill to the floor.

Most of the money that the Government spends is mandatory or required, spending. The bulk of these dollars is paid out in the form of benefits for entitlement programs, such as Social Security, Medicare, and Medicaid. This required spending has been growing

at an average rate of 6.6 percent each year, and in 1992, it accounted for 62 percent of our total Federal expenses.

Our key domestic, international, and defense programs are also supported by the discretionary dollars in the budget. We have more direct control over these discretionary dollars because they fall under the jurisdiction of the annual appropriations—or spending—process here in Congress. This discretionary spending is also an area where Congress has historically approved less than requested by the President. Since 1945, Congress has approved a total of \$200 billion less than our Presidents have requested.

But discretionary spending only represents a relatively small portion of the overall budget. For example, in 1992, discretionary spending accounted for 38 percent of total Federal spending. Over half of this total was used to finance defense programs, and only 16 percent supported domestic needs.

One way that we can begin to reduce spending is by focusing on the discretionary dollars in our appropriations—or spending—bills. If H.R. 1578, the Expedited Rescissions Act, becomes law, the President will be able to identify and eliminate items in this discretionary portion of the budget because, although discretionary spending does not represent most of our Federal spending, it does represent the area of the budget where we can immediately begin to make cuts. H.R. 1578 would enable the President to eliminate certain programs without having to veto an entire appropriations bill, and it would not affect spending for entitlement programs.

As a result of H.R. 1578, we would be able to spotlight narrow interest spending and make it difficult for these items to be camouflaged in large, omnibus spending bills. If Congress thought that one of the President's decisions was unreasonable, it would have the right to vote on the decision, and if a majority disagreed with the President, Congress could overturn his decision. This majority vote by Congress would insure that the democratic process remained intact, and that Government operated effectively and without gridlock. It would also mean that Congress and the President would share responsibility for these decisions, instead of playing the "blame game" when the time came to be accountable for them.

No doubt you remember the California State budget crisis last summer when the State legislature and Governor were held hostage because a two-thirds majority was needed to approve budget changes made by the Governor. This created gridlock. By example alone, this represents the need for a majority, not two-thirds, overrule of the President's ability to change Congress' spending priorities. President Clinton was elected to bring an end to the gridlock that has plagued the Government for the past 10 years. For this reason, I support giving Congress an opportunity to overturn the President's decision by majority alone.

Although this bill represents an important step we can take to eliminate wasteful spending, it is certainly not the panacea for the growing deficit or our economic crisis. It is not the perfect solution. For example, H.R. 1578 transfers power from Congress to the President. It decreases the most important power that Congress possesses—the power of the purse—and could result in just substituting Presidential spending priorities for congressional ones.

Additionally, if we wanted to achieve greater savings, we could extend this increase in Presidential purse power to all spending and revenue bills, thereby including special interest provisions in tax bills, as well. This would enable the President to more closely review such measures and distinguish spending that is designed to benefit just a few, from investment that will benefit the greater public good. Close scrutiny of such provisions would start us on our way toward the deficit reduction that the American people have set as a goal. In 1992 alone, overall Federal tax expenditures were estimated at \$375 billion.

Regardless, I support H.R. 1578 as a first step toward getting our spending practices under control. The problem is not going to go away, and we need to face the challenge that is before us now. The provisions of H.R. 1578 will be in effect for 2 years, long enough for us to test this change in our process. This trial run will enable us to see if giving the President more control over Congress' purse power does, indeed, result in decreased Government spending.

President Clinton knows that the expenses of our Federal Government are far too great. He has already asked us to make sizable reductions in Federal spending in order to pave the way for real economic growth. We here in Congress have an opportunity to lay the foundation for such growth by supporting this bill. If we are serious about bringing responsibility and fairness to the budget process, now is the time to start looking at effective ways to highlight and eliminate unnecessary spending. The time has come to test expedited rescissions.

Mr. CASTLE. Mr. Chairman, I yield 4 minutes to the gentleman from New York [Mr. SOLOMON], who has made such an impassioned plea for the line-item veto.

Mr. SOLOMON. Mr. Chairman, I thank the gentleman for yielding. Let me heap praise on the gentleman from Delaware [Mr. CASTLE], the gentleman from Massachusetts [Mr. BLUTE], and the gentleman from New York [Mr. QUINN], for being the Republican freshmen that have shepherded this substitute to the floor.

Mr. Chairman, let me echo the remarks of my good friend and leader, the gentleman from Illinois [Mr. MICHEL], for what he had to say. The vote of 257 votes for his amendment I think is indicative of what is happening in the Committee on Rules.

Mr. Chairman, the American people are beginning to realize just how unfair Members of this House on both sides of the aisle are treated. I have here literally dozens and dozens of letters from every State in the Union which are becoming concerned about it. Think about that.

Mr. Chairman, let me say, particularly to the new Members on both sides of the aisle, article I of section 7 of the Constitution states that when a President vetoes a bill, it requires two-thirds vote to override him. Therefore, it stands to reason that when a President vetoes a line-item, it ought to require a two-thirds vote to override him.

Castle-Solomon does just that; the bill does not, and the sponsors admit it. My good friend, the gentleman from Texas [Mr. STENHOLM]—and I have great respect for him—says that.

Mr. Chairman, if you believe in true line-item veto, vote for Castle-Solomon. Many Democrats are claiming that they have to vote

for the watered down version because it is the only chance they have of getting the bill passed, and that is the only vote they will get.

Mr. Chairman, that just is not so. If one votes for Solomon-Castle, the true line-item veto, and it passes, it goes over to the other body, and that sends the toughest possible message one can send, that you believe in the line-item veto.

What happens then? If the Senate is sincere and if they are going to live up to some of the commitments that the gentleman from Texas [Mr. STENHOLM] got from the other body, they will pass the true line-item veto. But if they decide not to, they will live up to their bargain, if there is a bargain, and they will pass the watered down version. That means it will come back to this body for another vote.

Mr. Chairman, that is why Members should vote for Castle-Solomon now, because they are guaranteeing a chance for a real line-item veto, and at the very least a final vote on the watered down version. That puts pressure on the other body from the American people.

Mr. Chairman, if Members do not vote for this, 2 years from now almost all Democrats will have voted to add, and here it is right out of the Clinton budget, almost every single Democrat, including every freshman, will have voted to add another \$600 billion-plus to the national debt.

Mr. Chairman, let me tell Members what happens about a month before the next elections. The National Taxpayers Union will put out a flyer, and this will be the flyer. It is labeled "The Biggest Spenders in the Congress." Most every one of your names are going to be on it.

Mr. Chairman, I would say to my friends, no one will be there to bail you out. You will be standing there all by yourself with whoever your opponent is waving these "Biggest Spenders in the Congress." That is going to be you, and you cannot alibi out of it.

Mr. Chairman, that is why Members ought to be voting for the Solomon-Castle amendment. Send it over to the Senate; live up to your campaign promises; and you will have done everything you could to get a true line-item veto that you believe in. If you cannot get it, the bill comes back here and even I would then vote for the watered down version, because we have done then everything that we can do.

Mr. Chairman, that is why Members need to vote for Solomon-Castle right now. Stand up and do it. You will be glad you did.

Members, article 1, section 7 of the Constitution states that when a President vetoes a bill, it requires a two-thirds vote to override him. Therefore it stands to reason that when a President vetoes line item, it ought to require a two-thirds vote to override him.

Castle-Solomon does that. The bill does not. And the sponsors admit it. Therefore it's clear if you believe in true line-item vote for Castle-Solomon.

Mr. Chairman, many of your Democrats are claiming they have to vote for the watered down version because it has the only chance of passing the other body and that this is the only vote they will get. Well that is not so.

If you vote for Solomon-Castle true line-item veto and it passes, it goes to the Senate and sends the message you compromised on.

If the Senate is sincere, they will either pass the true line-item veto or pass the watered down version and send it back to us for another vote.

And that is why you should vote Castle-Solomon now, because you are guaranteeing a chance for real line-item veto and at the very least a final opportunity to vote for the watered down version. Members vote Castle-Solomon and give the American people the chance to really pressure the other body.

If you don't, 2 years from now almost all of you Democrats will have voted to add another \$600 billion to the national debt.

And about a month before your elections—the National Tax-payers Union will publish a list entitled Biggest Spenders who caused that unconscionable debt increase. And my friends, no one will be there to bail you out. You'll be standing all by yourself with your opponent waving your name as one of the biggest spenders in Congress.

If you're smart you'll vote for the Solomon-Castle true line-item veto. Right now. And if the Senate won't go for it, and pass the watered down version, then vote for the watered down version and at least say you tried to live up to your campaign promises.

Finally, Mr. Chairman, I want to commend our outstanding Republican freshman class for taking a leadership role on this important issue so early in their first term.

To me it is an encouraging sign that the times truly are changing and that the people are getting dedicated public servants who want to work in their best interests.

I especially commend the freshman leaders—Mr. CASTLE of Delaware, Mr. QUINN of New York, and Mr. BLUTE of Massachusetts for bringing this issue to the Rules Committee and to the floor of the House.

I hope our efforts will succeed, but if we don't, you can bet we will be back again and again and again until the will of the American people is carried out. I thank the gentleman for yielding me this time.

Mr. CASTLE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, not many years ago the budgets of most of our State governments were as likely to be out of balance as the Federal budget. There are 51 State and Federal budgets in America; 50 of them have balanced budgets. That is, revenues and expenditures equal each other every year. Forty-nine of these governments have balanced budgets. Forty-three have line-item veto authority for their executives.

The Federal Government stands out; its budget is not balanced. It has no balanced budget amendment and no line-item veto authority. Only the Federal Government has not given itself the tools to attack its deficit.

It was stated last night and early today that the States and the Federal Government are different, and that point is well-taken. They are different because the States balance their budgets, and the Federal Government does not.

Mr. Chairman, today we can start to change our budget problem. We debated the line-item veto for 2 hours last night and an hour and a half today. A vast majority of the speakers affirmed support for the concept of the line-item veto.

The dispute today is over how strong this authority should be. What is undisputed is that the Castle-Solomon amendment is the strongest line-item veto proposal. I think the gentleman from Texas [Mr. STENHOLM] said it very well last night: If you believe in the strongest line-item veto, vote for Castle-Solomon; if you believe in a modified approach, vote for Spratt-Stenholm; if you do not believe in either, then just vote no.

Mr. Chairman, I agree. Let us take action and do the right thing. Vote for the true line-item veto. Vote for the Castle-Solomon substitute.

Mr. DERRICK. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the Spratt-Stenholm bill, you can call it a line-item veto, you can call it what you like, but it is as close as we have ever come to having accountability in this body. Not only here, but up at 1600 Pennsylvania Avenue.

Mr. Chairman, as I said last night, there are only two ways to balance the budget: You spend less or take in more. You can devise all the gimmicks you want, call them balanced budget amendments, line-item veto, Gramm-Rudman-Hollings, whatever you like, but you are going to balance the budget by either spending less or taking in more.

Now, what the Castle-Solomon amendment wants you to do is relinquish your responsibility, that responsibility that the people who elected you have given you. What the Castle-Solomon amendment would do is allow you to relinquish that responsibility, to a large degree, to the President.

The Constitution gives us the responsibility, but Castle-Solomon would give it to the President with a one-third-plus-one majority. What you would be saying to your constituents back home is, "You might have thought when you elected me that I had what it took to vote 'no' on some expenditures, but you were wrong. You were wrong. I do not want that responsibility, because I cannot handle it. I am going to vote for Mr. SOLOMON's amendment, and we are going to give that responsibility to the President of the United States."

Now, if you want to go home and say to your constituents, "You elected me to deal with this problem, and I am going to deal with it," then you vote for Stenholm, because what Stenholm is about is accountability of this body and accountability down at 1600 Pennsylvania Avenue.

I do not want to have to send out fliers, as the gentleman from New York [Mr. SOLOMON] has suggested, right before the election telling your constituents that you did not have what it took. No, sir, you voted the easy way out; you voted for Solomon, and are no longer accountable.

Vote for Stenholm. Vote against Castle-Solomon.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore (Mr. DE LA GARZA). All time has expired.

The question is on the amendment in the nature of a substitute, offered by the gentleman from Delaware [Mr. CASTLE], as amended.

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. CASTLE. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 198, noes 219, not voting 20, as follows:

[Roll No. 146]

AYES—198

Allard	Doolittle	Johnson (CT)
Andrews (NJ)	Dreier	Johnson, Sam
Archer	Duncan	Kasich
Armey	Dunn	Kim
Bacchus (FL)	Emerson	King
Bachus (AL)	Everett	Kingston
Baesler	Ewing	Klug
Baker (CA)	Fawell	Knollenberg
Baker (LA)	Fingerhut	Kolbe
Ballenger	Fish	Kyl
Barcia	Fowler	Lazio
Barrett (NE)	Franks (CT)	Leach
Barrett (WI)	Franks (NJ)	Lehman
Bartlett	Gallegly	Levy
Bateman	Gallo	Lewis (CA)
Bentley	Gekas	Lewis (FL)
Bereuter	Geren	Lightfoot
Bilbray	Gibbons	Linder
Bilirakis	Gilchrest	Livingston
Bliley	Gillmor	Machtley
Blute	Gingrich	Mann
Boehner	Goodlatte	Manzullo
Bonilla	Goodling	McCandless
Bunning	Goss	McCollum
Burton	Grams	McCrery
Buyer	Grandy	McDade
Callahan	Greenwood	McHale
Camp	Gunderson	McHugh
Canady	Hall (TX)	McInnis
Cantwell	Hancock	McKeon
Castle	Hansen	Meehan
Clinger	Hastert	Meyers
Coble	Hayes	Mica
Collins (GA)	Hefley	Michel
Combest	Herger	Miller (FL)
Condit	Hobson	Minge
Cooper	Hoekstra	Molinari
Coppersmith	Hoke	Moorhead
Cox	Holden	Morella
Crane	Horn	Murphy
Crapo	Houghton	Myers
Cunningham	Huffington	Nussle
Deal	Hunter	Oxley
DeLay	Hutchinson	Packard
Deutsch	Hyde	Pallone
Diaz-Balart	Inglis	Parker
Dickey	Inhofe	Paxon
Dooley	Istook	Penny

Peterson (MN)
 Petri
 Pombo
 Porter
 Pryce (OH)
 Quinn
 Ramstad
 Ravenel
 Regula
 Ridge
 Roberts
 Rogers
 Rohrabacher
 Ros-Lehtinen
 Roth
 Royce
 Santorum
 Saxton

Schaefer
 Schenk
 Schiff
 Sensenbrenner
 Shaw
 Shays
 Shuster
 Skeen
 Smith (MI)
 Smith (NJ)
 Smith (OR)
 Smith (TX)
 Snowe
 Solomon
 Spence
 Stearns
 Stump
 Sundquist

Swett
 Talent
 Tauzin
 Taylor (MS)
 Taylor (NC)
 Thomas (CA)
 Thomas (WY)
 Torkildsen
 Upton
 Vucanovich
 Walker
 Walsh
 Weldon
 Wolf
 Young (AK)
 Young (FL)
 Zeff
 Zimmer

NOES—219

Abercrombie
 Ackerman
 Andrews (ME)
 Andrews (TX)
 Applegate
 Barlow
 Beilenson
 Beville
 Bishop
 Blackwell
 Boehlert
 Bonior
 Borski
 Boucher
 Brewster
 Brooks
 Browder
 Brown (CA)
 Brown (FL)
 Brown (OH)
 Bryant
 Byrne
 Cardin
 Carr
 Chapman
 Clay
 Clayton
 Clement
 Clyburn
 Coleman
 Collins (IL)
 Collins (MI)
 Conyers
 Costello
 Coyne
 Cramer
 Danner
 Darden
 de la Garza
 DeFazio
 DeLauro
 Derrick
 Dicks
 Dingell
 Dixon
 Dornan

Durbin
 Edwards (CA)
 Edwards (TX)
 Engel
 English (AZ)
 English (OK)
 Eshoo
 Evans
 Fazio
 Fields (LA)
 Filner
 Flake
 Foley
 Ford (MI)
 Ford (TN)
 Frank (MA)
 Frost
 Furse
 Gejdenson
 Gephardt
 Gilman
 Glickman
 Gonzalez
 Gordon
 Green
 Gutierrez
 Hall (OH)
 Hamburg
 Hamilton
 Harman
 Hastings
 Hefner
 Hilliard
 Hinchey
 Hoagland
 Hochbrueckner
 Hoyer
 Hughes
 Hutto
 Inslee
 Jacobs
 Jefferson
 Johnson (GA)
 Johnson (SD)
 Johnson, E. B.
 Johnston

Kanjorski
 Kaptur
 Kennelly
 Kildee
 Kleczka
 Klein
 Klink
 Kopetski
 Kreidler
 LaFalce
 Lambert
 Lancaster
 Lantos
 LaRocco
 Laughlin
 Levin
 Lewis (GA)
 Lipinski
 Lloyd
 Long
 Lowey
 Maloney
 Manton
 Margolies-Mezvinsky
 Markey
 Martinez
 Matsui
 Mazzoli
 McCloskey
 McCurdy
 McDermott
 McKinney
 McNulty
 Meek
 Menendez
 Mfume
 Miller (CA)
 Mineta
 Mink
 Moakley
 Mollohan
 Montgomery
 Moran
 Murtha
 Nadler
 Natcher

Neal (MA)	Roukema	Synar
Neal (NC)	Rowland	Tanner
Norton (DC)	Rush	Tejeda
Oberstar	Sabo	Thompson
Obey	Sanders	Thornton
Olver	Sangmeister	Thurman
Orton	Sarpalius	Torricelli
Owens	Sawyer	Trafigant
Pastor	Schroeder	Tucker
Payne (NJ)	Schumer	Underwood (GU)
Payne (VA)	Scott	Unsoeld
Pelosi	Sharp	Valentine
Peterson (FL)	Shepherd	Velazquez
Pickett	Sisisky	Vento
Pickle	Skaggs	Visclosky
Pomeroy	Skelton	Volkmer
Poshard	Slattery	Waters
Price (NC)	Slaughter	Watt
Rahall	Smith (IA)	Waxman
Rangel	Spratt	Whitten
Reed	Stark	Williams
Reynolds	Stenholm	Wilson
Richardson	Stokes	Wise
Roemer	Strickland	Woolsey
Romero-Barcelo (PR)	Studds	Wyden
Rose	Stupak	Wynn
Rostenkowski	Swift	Yates

NOT VOTING—20

Barton	Fields (TX)	Roybal-Allard
Becerra	Foglietta	Serrano
Berman	Henry	Torres
Calvert	Kennedy	Towns
de Lugo (VI)	McMillan	Washington
Dellums	Ortiz	Wheat
Faleomavaega (AS)	Quillen	

The Clerk announced the following pair:

On this vote:

Mr. Calvert for, with Mr. Dellums against.

Mr. MOAKLEY and Mr. SLATTERY changed their vote from "aye" to "no."

Mr. PENNY changed his vote from "no" to "aye."

So the amendment in the nature of a substitute, as amended, was rejected.

The result of the vote was announced as above recorded.

Mr. HOKE. Mr. Chairman, we have two complex proposals before us today, and I have no doubt that the Castle-Solomon alternative makes it more difficult for Congress to spend money on wasteful programs. I therefore prefer this clear and airtight legislation, and I strongly urge my colleagues to pass it.

But this occasion is a unique moment to the House—we have two versions of a bill proposed by the two different parties upholding the same general concept and both making improvements to current law. I ask my colleagues to consider carefully this time and their votes—rarely does the House have an opportunity to drain the partisan poison from its debates, but we could do so now.

The Spratt-Stenholm bill has some fatal flaws, yet it would move this body perhaps an inch closer to fiscal accountability. It improves the existing process by requiring House and Senate votes on a Presidential rescission package and giving Congress only 20 rath-

er than 45 legislative days to dispose of the matter. I will therefore vote for this measure if it is the only one standing at the end of the day.

I regret, however, that we do not have the opportunity to consider H.R. 1578 under an open rule. This bill leaves huge parliamentary gaps into which we could still pour funds proposed for rescission. The legislative language of the majority's proposal, for example, remains silent on what happens to rescissions if Congress takes no action after the 20 legislative days. Proponents of Spratt-Stenholm contend that the money remains impounded indefinitely; opponents make the charge that it would have to reenter the budget.

A simple amendment to the bill could have settled this glaring open question. I also have difficulty with those provisions of H.R. 1578 that allow the Appropriations Committee to present a rival package of rescissions and permit a simple majority of either House to block the President's recommendations. The Castle-Solomon bill, on the other hand, would give Congress 20 days to pass a formal resolution of disapproval of a Presidential rescission package if the spending cuts were really distasteful to us. If we failed to take this action, the rescissions would automatically go into effect.

Castle-Solomon, therefore, has the ironic effect of converting gridlock and inaction into real budget cuts.

But the politics that have been driving enhanced rescission forward to this point are neither Republican nor Democrat—it's reform politics. And while this spirit is in the air of our Chamber, we should not sacrifice it at the altar of partisanship.

I will vote in support of both plans, Mr. Chairman, because we should go home tonight only after making it easier for the President to cut unnecessary Federal spending. Support the final passage of a bill later today that will engrave this principle into law.

Mr. CONYERS. Mr. Chairman, today the House considers H.R. 1578, legislation to provide expedited rescission authority for the President, a matter under the jurisdiction of the Committee on Government Operations.

In March, the Government Operations Legislation Subcommittee held a wide ranging hearing on this subject with witnesses from the administration, the distinguished minority leader BOB MICHEL and other interested Members, the Congressional Budget Office, the General Accounting Office and academia. We received the testimony of our former colleague, OMB Director Leon Panetta who repeated President Clinton's call for the adoption of expedited rescission authority.

Since the hearing, the Committee on Government Operations and Congressman JOHN SPRATT have worked diligently with the administration and OMB Director Panetta, the majority leader and other committed Members of Congress.

All of us are committed to eliminating wasteful and unproductive spending. The Committee on Government Operations has vigorously exercised its oversight function, holding a series of hearings to address fraud, waste, and other abuses throughout the Federal Government. Last year, the committee issued a report identifying over \$300 billion in Government mismanagement and waste, along

with recommendations for improvement, many of which were incorporated into the President's budget.

Historically, one tool to cut wasteful Federal spending has been rescission authority. Since the adoption of the Impoundment Control Act of 1974, Congress has rescinded over \$86 billion in unnecessary budget authority, nearly 25 percent more than proposed by the President.

As attractive and successful as rescission authority has been, I want to clarify its limitations. Rescission authority is not a panacea or cure all for the Federal deficit. During our Government Operations hearing, the GAO testified that total enacted rescissions since 1974 represent only 3 percent of the accumulated Federal debt and rescissions have never exceeded 23 percent of any single year's deficit. However, to reduce the current \$319 billion deficit by a comparable 23 percent would require rescinding \$73 billion, more than 13 percent of all fiscal year 1993 discretionary appropriations. This would nearly be the equivalent of rescinding the entire 1993 budget for the Departments of Education, Justice, State, Energy, and Interior. Clearly, rescission authority cannot solve the deficit problem on its own.

I am troubled by the potential for abuse and many of the concerns you have heard or will hear today reflect congressional concern fueled by administrative abuses of the 1970's. In fact, Congress adopted the Impoundment Control Act to address the misuse of an administration's impoundment authority to unilaterally and indefinitely cancel spending for selected programs. Consequently, this expedited rescission authority carefully provides for a limited trial run and the authority expires 2 years after enactment.

The legislation before the House is a modest effort to create a limited additional deficit reduction tool for the President. The legislation provides the President with a certainty of a vote on the President's rescission proposals, guaranteeing an accelerated, expedited process through Congress. The bill would permit the President to submit rescissions to Congress within 3 days of signing an appropriations bill and Congress must vote on these rescissions within 10 legislative days.

If the Appropriations Committee believes they can craft a better rescission package, they are free to report an alternative rescission proposal as well, provided it rescinds an equal or greater amount of budget authority. If the President's rescissions are defeated, this alternative proposal is automatically brought before the House for a vote. Additionally, nothing prohibits or impedes Congress from reporting additional rescissions under our constitutional power of the purse. This bill won't impede our authority to reconsider programs and rescind spending that fails to match with Federal priorities. Congress can continue to pass rescissions in addition to any of the President's rescission proposals under this authority.

President Clinton's budget moves the country forward, addressing both the budget deficit and our national investment deficit, re-investing in critical spending priorities such as education and health. However, the Nation needs to move away from huge deficit increases accumulated during the past two administrations. Three-quarters of the total Federal debt has been accumulated during the past 12 years. With a projected 1993 budget deficit of approxi-

mately \$319 billion and over \$4.1 trillion in aggregated Federal debt, the President could benefit from additional, stronger deficit reduction tools to rein in unnecessary Federal spending. I support the modest proposals of H.R. 1578 and urge its adoption.

Mr. FRANKS of Connecticut. Mr. Chairman, since President Clinton introduced his budget on February 17, my constituents in Connecticut have given me hundreds of suggestions to balance the budget without tax increases. Many of these suggestions focus on the wasteful spending that is slipped into large bills that the public supports. These people know that the deficit is not the result of an inadequate tax burden on Americans, but the result of frivolous spending.

A major step toward reducing the deficit is passing legislation that allows the President to cut out the billions of dollars in waste that gets inserted in large bills. However, the expedited rescission bill, H.R. 1578, that is being advanced today as the solution to wasteful spending, is actually a sham. Under this bill, rescissions would go into effect only if the House and Senate approved them by majority vote. This bill is little more than political posturing by the perpetual promoters of pork.

We need to force the Members of Congress who support these pork projects to be accountable for their wasteful spending. The Castle-Solomon amendment is the most powerful legislation before us today to cut the waste out of serious legislation. It provides for the automatic adoption of the President's rescissions unless both the House and Senate disapprove them. If a Member of Congress wants to protect some wasteful spending, that Member has to vote to preserve the program, even after it has been identified as wasteful spending by the President of the United States.

Cutting waste should not be difficult. And once cutting waste becomes easy, Members of Congress will be less likely to slide wasteful pork programs into serious legislation. I have sponsored a bill giving the President constitutional power to make line-item vetoes. I feel that this is the power a President should have to combat waste. Although the Castle-Solomon amendment is not as ideal as a constitutional line-item veto, it is significant because it forces Congress to take an active and open stand on waste.

President Clinton said during his campaign that he was a supporter of the line-item veto—the same power he had as Governor of Arkansas. Now the President is trying to portray diluted expedited rescission legislation as a line-item veto. Well, the President neglects to recognize the constitutional definition of a veto. The votes of at least two-thirds of both Houses of Congress are required to override a veto. This phony line-item veto is yet another example of President Clinton renegeing on his campaign promises—something we have seen many times during these dismal first 100 days.

Mr. HUGHES. Mr. Chairman, I rise in support of H.R. 1578, the Expedited Rescissions Act of 1993. I wish to commend my colleagues CHARLIE STENHOLM and JOHN SPRATT as well as our former colleague Tom Carper, who is now the Governor of Delaware, for their leadership in developing this innovative mechanism to tighten the reins on Government spending.

It has long been the tradition of Congress to bundle the thousands of Federal spending programs we oversee into the 13 appro-

priations bills. While this process helps to assure that Federal funds are distributed fairly, it is clear that this process has been abused.

All too often, we hear stories about projects which have been slipped into appropriations bills without undergoing the required scrutiny of the authorization process. In other instances, our needs simply change over the course of the year, and we find there is room to reduce or eliminate funding which has been included in appropriations bills.

H.R. 1578 will provide a mechanism to do just that, while still maintaining the constitutionally mandated balance of power between Congress and the President when it comes to the appropriation of funds.

H.R. 1578 will give the President the authority to pick out of appropriations bills which he signs, those items which he feels are excessive, or which should not have been included in the bill in the first place. The President would then submit his list of proposed rescissions to Congress, where they would have to be voted on under an expedited review process.

Specifically, the House would have to vote within 17 days on the President's request, followed by a Senate vote some 10 days later. A simple majority vote in both the House and Senate is all that would be required in order for the rescissions to take effect.

This is similar to the line-item veto authority which many Members have advocated, in that it would go a long way toward increasing the accountability of the appropriations process. The major difference is that it would maintain Congress' constitutional prerogative to appropriate funds, without unduly shifting power to the executive branch.

While I support the expedited rescission process, I do not think anyone should view this as a magic cure for our deficit problem. If you recall last year, President Bush went over every appropriations bill with a fine-tooth comb, and he came up with a list of some \$5.7 billion in proposed rescissions.

Most of his rescissions came from the proposed cancellation of the second and third *Seawolf* submarines which the Bush administration itself had requested. We ended up rescinding even more than the President had requested—some \$5.8 billion.

While that is a lot of money, it barely put a dent in our nearly \$400 billion Federal deficit. It just goes to show that while the expedited rescission process is a good step in the right direction, we still have to do a lot more to really get the deficit under control.

That includes doing a better job of scrutinizing appropriations bills, to identify spending programs which we do not need or cannot afford. It also means following up on that scrutiny by making the tough choices to cut programs, regardless of their popularity or political appeal.

The expedited rescission process is a good first step toward restoring discipline to the budget process, and I would urge my colleagues to join me in supporting this legislation.

Mr. EWING. Mr. Chairman, the so-called line-item veto, or enhanced rescission, legislation being brought before the House, the Stenholm-Spratt proposal, is a paper tiger. It will do little more

than make some adjustments to the current rescission process, and this bill is wholly inadequate.

This is another in a long list of broken promises. Just like we keep being told by the leadership that the budget will be balanced, that Congress will be reformed, now we are being told that the line-item veto is going to become law. Like the Wall Street Journal recently stated, this is not the line-item veto, it is line-item voodoo.

A real line-item veto, like the one I am sponsoring, would require a supermajority vote in Congress to override the President's veto of a wasteful spending item. My legislation would require a three-fifths vote, and other legislation would require a three-fourths vote. However, under the Stenholm-Spratt bill a simple majority in either House of Congress could kill spending cuts. This makes no sense since a simple majority passed the spending in the first place. The Stenholm-Spratt bill takes the teeth out of the line-item veto.

I also believe we need a constitutional amendment guaranteeing a line-item veto. Statutory authority, such as Stenholm-Spratt, can be taken away by the Congress just as easily as it is given. Indeed, this bill only grants enhanced rescission for 2 years.

Finally, under this bill the appropriations committees could present alternative spending cuts to the President's proposals. What kind of smoke and mirrors is this? Congress ought to be forced to vote on spending cuts requested by the President. That is what a line-item veto is all about.

For all these faults, at least the Stenholm-Spratt bill will force votes on spending, and I will support it as a step in the right direction because it will force some spending programs to stand on their own merit. However, it is not a very big step.

Stenholm-Spratt is not a line-item veto, and nobody should believe that it is.

Mr. STENHOLM. Mr. Chairman, in order to ensure that the record on H.R. 1578 is as complete as possible, I am submitting for the RECORD information intended to answer any questions about this legislation as well as several letters from various business and taxpayer groups supporting this legislation. I am also submitting for the RECORD a letter from President Bill Clinton expressing his support for this legislation.

QUESTIONS AND ANSWERS—MODIFIED LINE-ITEM VETO LEGISLATION

How does Modified Line-item veto differ from the traditional line-item veto?

Traditional line-item veto proposals require $\frac{2}{3}$ of both the House and Senate to disapprove of a Presidential proposal to eliminate a spending item. In other words, the President would need to gain the support of just $\frac{1}{3}$ of either chamber to eliminate individual spending items. In contrast, modified line-item veto requires that a majority of both chambers must approve a President rescission in order to eliminate the spending items.

In addition, under most line-item veto proposals require that the President propose to eliminate an entire line-item. In most instances, a line-item in an appropriations bill would include lump sum appropriations with specific items included in report language. This legislation would allow a President to propose to reduce the

budget authority for specific parts of a line-item if he did not wish to eliminate the entire line-item.

How is the procedure under this legislation different from the existing procedure for considering Presidential rescissions under Title X of the Budget Control and Impoundment Act?

Under Title X of the Budget Control and Impoundment Act, the President may propose to rescind all or part of any item at any time during the fiscal year. If Congress does not take action on the proposed rescission within 45 days of continuous session, the funds must be released for obligation. Congress routinely ignores Presidential rescissions. The discharge procedure for forcing a floor vote on Presidential rescissions is cumbersome and has never been used. Most Presidential rescission messages have died without a floor vote.

Congress has approved just 34.5 percent of the individual rescissions proposed by the President since 1974 (350 of 1,012 rescissions submitted), representing slightly more than 30 percent of the dollar volume of proposed rescissions. Nearly a third of the Presidential rescissions approve came in 1981. Excluding 1981, Congress has approved less than 20 percent of the dollar volume in Presidential rescissions. Although Congress has initiated \$65 billion in rescissions on its own, it has ignored nearly \$48 billion in Presidential rescissions submitted under Title X of the Budget Control and Impoundment Act without any vote at all on the merits of the rescissions.

In 1992, the threat that there would be an attempt to utilize the Title X discharge procedure to force votes on 128 rescissions submitted by President Bush provided the impetus for the Appropriations Committee to report a bill rescinding more than \$8 billion. The authors of H.R. 1013 intend to make the rescission process routinely work the way it did last year in which Congress reacted to a Presidential rescission by passing an alternative instead of simply ignoring the rescissions.

How would this legislation interact with the existing process for consideration of rescissions under Title X of the Impoundment Control Act?

This legislation is intended to supplement the existing procedure for consideration of rescissions under Title X. The expedited consideration of rescissions provided for by this legislation would be available to rescissions submitted within three days of the signing of an appropriations bill that comply with the restrictions in the bill. The current Title X procedure rescissions could be utilized for rescissions that are not submitted within three days or do not comply with the restrictions in this bill. However, the President could not propose to rescind the same project under both procedures. The President may not propose to rescind a project under the Title X procedure if the project was already considered and preserved under this supplementary procedure. The ability of the Appropriations Committee to report out separate rescission legislation would be completely preserved by this legislation.

Doesn't providing the President modified line-item veto authority alter the balance of power between Congress and the President?

No. The approach of modified line-item veto legislation strikes a balance between protecting Congress' control of the purse and pro-

viding the accountability in the appropriations process. Unlike line-item veto legislation, this bill would preserve the Constitutional power of Congressional majorities to control spending decisions. The line-item veto could give the President virtually unchecked authority to write appropriations bills. Modified line-item veto authority increases the accountability of both sides, but does not give the President undue leverage in the appropriations process because funding for a program will continue if a simple majority of either House disagrees with him.

Doesn't this legislation constitute an unconstitutional legislative veto?

No. This legislation was carefully crafted to comply with the Constitutional requirements established by the courts by *I.N.S. v. Chada*, 462 U.S. 919 (1983), the case that declared legislative veto provisions unconstitutional. Legislative vetoes allow one or both Houses of Congress (or a Congressional committee) to stop executive actions by passing a resolution that is not presented to the President. The *Chada* court held that legislative vetoes are unconstitutional because they allow Congress to exercise legislative power without complying with Constitutional requirements for bicameral passage of legislation and presentment of legislation to the President for signature or veto. For example, allowing the House (or Congress as a whole) to block a Presidential rescission by passing a motion of disapproval without sending the bill to the President for signature or veto would violate the *Chada* test.

This bill meets the *Chada* tests of bicameralism and presentment by requiring that both chambers of Congress pass a motion enacting the rescission and send it to the President for signature or veto, before the funds are rescinded. The bill does not provide for legislative review of a preceding executive action, but expedited consideration of an executive proposal. Thus, it represents a so-called "report and wait" provision that the court approved in *Sibbach v. Wilson and Co.*, 312 U.S. 1 (1941) and reaffirmed in *Chada*.

Doesn't expedited rescission violate the legislative prerogative by requiring action preventing amendments to a rescission bill?

The expedited procedure for consideration of rescission messages in this bill is similar to fast track procedures for trade agreements or for base closure reports, which have worked relatively well. In fact, the scope of the legislation that would be subject to expedited consideration is much more confined under this procedure than in either trade agreements or base closings.

Doesn't expedited rescission allow the President to unduly dictate the legislative calendar?

This bill seeks to balance the goal of obtaining votes on Presidential rescissions in a timely fashion with the need to prevent the President from tying up the legislation process. This bill requires that the President package all of the rescissions from each individual appropriations bill to prevent a President from creating a legislative logjam by proposing dozens of separate rescissions. The legislation was changed to provide that the time allowed for consideration of the bill before a vote is required be counted in legislative days instead of calendar days, ensuring that the House will be in session for ten days after receiving the message before a vote is required. The House could vote on the package any point within the

ten legislative days for consideration. This preserves the flexibility of Congressional leaders to develop the legislative schedule while ensuring that the President's package is voted on in a timely fashion.

Would the Appropriations Committee be able to offer an alternative rescission package?

Yes. The bill provides that if the Appropriations Committee could report an alternative package and report it at the same time as the President's package. The Appropriations Committee alternative would come to the floor if the President's package is first defeated in the House.

Could the President propose to lower the spending level of an item, or would he have to eliminate the entire item?

The President could propose to rescind the budget authority for all or part of any program in an appropriations bill. Consequently the President could, if he so chose, submit a rescission that simply lowered the budget authority for a certain program without eliminating it entirely. In comparison, most line-item veto proposals require the President to propose to eliminate an entire line item in an appropriations bill.

Wouldn't modified line-item veto authority needlessly complicate the budget process by requiring Congress to vote on programs it has already approved?

Modified line-item veto authority is a reasonable, balanced reform of the budget process that adds an orderly procedure for review of questionable spending that escaped review during initial consideration of an appropriations bill. Although Appropriations bills sent to the President have been considered by each chamber at least once and often twice, the legislative process rarely provides an opportunity to review individual items on their own merits. Congress has been embarrassed on many occasions by items included in appropriations bills that most members were unaware of when they voted on the appropriations bill. The fact that a program was included in a larger appropriations bill that was passed does not in any way mean that the majority of Congress approved of that program. For example, when Congress passed the Agricultural Appropriations Bill in 1990, the majority of the members did not endorse spending on Lawrence Welk's home. Requiring a second vote on individual items included in a omnibus appropriation bill is not an unreasonable response to realities of the legislative process.

How does this legislation ensure that a Presidential rescission is voted on by Congress?

This bill establishes several procedural requirements ensuring that Congress cannot simply ignore a rescission message. A rescission bill would be introduced by request by either Majority or Minority Leader. If the Appropriations Committee does not report out the rescission bill as required within ten days, the bill is automatically discharged from the committee and placed on the appropriate calendar. Once the bill is either reported by or discharged from the Appropriations Committee, any individual member may make a highly privileged motion to proceed to consideration of the bill. Although a motion to adjourn would take precedence, the House could not prevent a vote on a rescission message by adjourning be-

cause only legislative days are counted toward the ten day clock. By providing for a highly privileged motion to proceed to consideration and limiting debate and preventing amendments to a rescission bill. This bill ensures that there will be a vote on a rescission bill so long as one member is willing to stand up on the House floor and make a motion to proceed.

Furthermore, it is assumed that OMB will continue the practice it has followed under Title X of the ICA of withholding funds from apportionment until Congress acts on the rescission message. (See CRS Report 87-173 ALD "Presidential Impoundment Authority After *City of New Haven v. United States*," by Richard Ehlke and Morton Rosenberg, March 3, 1987.) The funds would be withheld, not cancelled. This practice has developed to prevent funds from being spent on projects that may be eliminated. The bill provides that the funds must be released for obligation upon defeat of a rescission bill in either House. This language clearly provides that OMB will be required to release the funds only when Congress rejects the rescission bill. In effect, funds included in a rescission message would be frozen in the pipeline until Congress either votes to rescind them (and remove them from the pipeline entirely) or to release them for obligation. Congress will have a strong incentive to vote on the funds to ensure that they are released for obligation.

Would this proposal allow the President to strike legislative language from appropriations bills?

No. It specifically allows a President to rescind only budget authority provided in an appropriations act. Legislative language, including limitation riders, would not be subject to this procedure.

Could the President propose to increase budget authority for a program?

No. The bill specifically provides that the President may propose to eliminate or reduce budget authority provided in an appropriations bill. It does not allow the President to propose an increase in budget authority.

Would this bill apply to entitlement programs such as social security and medicare?

No. Although earlier versions of the legislation would have allowed a President to propose to rescind spending for entitlement programs funded through the regular appropriations bills (as is the case with unemployment insurance and other income support programs), this was changed to clarify that the expedited rescission process does not apply to any entitlement programs.

Since the rescission process would only apply to the relatively small amount of spending in discretionary programs, isn't this just a political gimmick that won't have a significant impact on the deficit?

The authors of this proposal have never claimed that this proposal would balance the budget or even make a substantial dent in the budget deficit. However, it will be a useful tool in helping the President and Congress identify and eliminate as much as \$10 billion in wasteful or low-priority spending each year. It will help ensure that the federal government spends its scarce resources in the most effective way possible and does not divert resources to low-priority programs. Perhaps most importantly, by increasing the accountability of the budget process, it will help restore some credi-

bility to the federal government's handling of taxpayer money with the public. This credibility is necessary if Congress and the president are to gain public support for the tough choices of raising taxes or cutting benefits necessary to balance the budget.

What happens if the president submits a rescission message after Congress recesses for the year?

The House has ten legislative days to consider the rescission message. Since the time allowed for consideration of the rescission message only counts days that Congress is in session, Congress would not be required to vote on a rescission message until after it returns from recess. However, the funds would not be released for apportionment for proposed rescissions until Congress votes on and defeats a Presidential rescission bill. Congressional leaders would have to decide whether to reconvene Congress to consider the rescission message or to leave the message pending while Congress is in recess. Congress could delay adjourning sine die until the time period in which the President could submit a rescission has expired so that it can reconvene to consider a rescission message if it is submitted after Congress completes all other business. If the funds included in a rescission message are considered by Congress to be important, Congress would have to return to session to vote on the message. If a rescission message is submitted after the first session of the 103rd Congress has adjourned for the year, or if Congress adjourns before the period for consideration of a rescission message expires, the rescission message would remain pending at the beginning of the second session of the 103rd Congress. The House would still be required to vote on the rescission message by the tenth legislative day after the rescission package was submitted. For rescission messages that are submitted but not disposed of at the end of the 103rd Congress, the bill includes a special transition rule that provides that the Presidential rescission message would be resubmitted. In the case of messages resubmitted in the 104th Congress, the House would have ten legislative days from the day in which the message was resubmitted to vote on the rescission message.

THE WHITE HOUSE,
Washington, DC, April 27, 1993.

Hon. THOMAS S. FOLEY,
Speaker of the House of Representatives, Washington, DC.

DEAR MR. SPEAKER: I am writing in support of the substitute for H.R. 1578, the Expedited Rescissions Act, which has been made in order for House Floor consideration by the Rules Committee in H. Res. 149.

As you know, I support a line-item veto to reduce wasteful government spending. The bill about to be considered by the House would give the President modified line-item veto authority which I believe would go a long way toward achieving the purposes of a line-item veto.

The bill would enable the President to reject items in an appropriations bill. Those items could then be approved only by a separate vote in the Congress. The measure essentially would expedite the existing process for consideration of rescissions.

I believe this bill would increase the accountability of both the executive and legislative branches for reducing wasteful spending. It would provide an effective means for curbing unnecessary or inappropriate expenditures without blocking enactment of critical appropriations bills. Some have expressed concern that this proposal might threaten the prerogatives of the Congress, but I do not believe that it would shift the constitutional balance of powers that is so critical to the success of our form of government.

I urge the House to work with me to control government spending by agreeing to consider the expedited rescission issue and by adopting H.R. 1578 as set forth in Part 1 of the Rules Committee's report.

Sincerely,

BILL CLINTON.

NATIONAL TAXPAYERS UNION,
Washington, DC, April 12, 1993.

DEAR REPRESENTATIVE: The National Taxpayers Union, America's largest grassroots taxpayer organization, urges you to support H.R. 1578, the "Modified Line-Item Veto" bill introduced by Representatives John Spratt and Charles Stenholm.

While we have long preferred stronger legislation that would allow full line-item veto powers for the President, the Spratt-Stenholm "Modified Line-Item Veto" is a practical, positive step forward on the path toward fiscal restraint. It can and should be passed by the House.

A side-by-side comparison of H.R. 1578 and H.R. 1013, the original Stenholm measure, indicates that, on balance, the Spratt-Stenholm version is actually stronger than H.R. 1013 and that it would be a more effective tool to eliminate wasteful spending.

For these reasons, we urge you to work for the passage of H.R. 1578 when the House returns from recess. We also encourage you to support other line-item veto measures, such as H.R. 159, the "Legislative Line-Item Veto," by Representative John Duncan, Jr.

The only effective line-item veto will be one that is enacted into law. We believe that H.R. 1578 provides the best opportunity for passage in both the House and the Senate. For that reason, any procedural vote, as well as final passage, that pertains to H.R. 1578, will be a top priority for the National Taxpayers Union.

The Spratt-Stenholm "Modified Line-Item Veto" would be a major improvement to the current process. We urge you to support it on the floor of the House.

Sincerely,

DAVID KEATING,
Executive Vice President.

NATIONAL ASSOCIATION OF
HOME BUILDERS,
Washington, DC, April 1, 1993.

DEAR REPRESENTATIVE: On behalf of the more than 160,000 member firms of the National Association of Home Builders

(NAHB), I respectfully urge your vote for H.R. 1578, the Expedited Rescission Act of 1993 by Representative Spratt (D-SC).

H.R. 1578 would revise rescission procedures under the Budget Act for fiscal 1993 and 1994 only, and would require a simple majority vote by both chambers to approve the President's rescission request, otherwise the funds in question must be made available for obligation on the following day.

Such a provision actually is more acceptable than a line-item veto in that it does not challenge the co-equal authority of the Legislative and Executive branches of government. Moreover, this approach would achieve greater flexibility for both branches of government than currently exists. It would allow the Executive branch to go beyond signing or vetoing a bill, by allowing a challenge to specific funding levels with mandatory Congressional response. Alternatively, Congress, by a simple majority, could overturn the President's request by failing to support it.

We believe that the expedited rescission authority would provide a meaningful balance for retaining the co-equal authority of the Legislative and Executive branches, while providing an effective alternative process for addressing overly generous spending. Therefore, we respectfully urge your vote for H.R. 1578.

Best regards,

J. ROGER GLUNT.

NATIONAL FEDERATION OF
INDEPENDENT BUSINESS,
Washington, DC, April 19, 1993.

Hon. CHARLES STENHOLM,
U.S. House of Representatives,
Washington, DC.

DEAR REPRESENTATIVE STENHOLM: On behalf of over 600,000 members of the National Federation of Independent Business (NFIB), I am writing to express support for your modified line-item veto legislation, H.R. 1578.

While NFIB members believe a stronger spending restraint proposal as embodied in a pure line-item veto would be the best way to reduce the federal deficit, H.R. 1578 is certainly an improvement over current law. NFIB members believe that bi-partisan efforts to reduce the federal deficit should be Congress' top priority as indicated in a 1991 poll. They feel strongly that the deficit acts as a brake on economic growth and mortgages their children's future.

H.R. 1578 is a needed first step toward ensuring that tax dollars are spent according to national priorities, not narrow interests. H.R. 1578 will provide an important tool to reduce federal spending and help cut the budget deficit.

We look forward to working with you to ensure that H.R. 1578 passes when it is considered on the House floor.

Sincerely,

JOHN J. MOTLEY III,
Vice President, Federal Governmental Relations.

U.S. BUSINESS AND INDUSTRIAL COUNCIL,
Washington, DC, April 15, 1993.

Hon. CHARLES W. STENHOLM,
U.S. House of Representatives,
Washington, DC.

DEAR CONGRESSMAN STENHOLM. Speaking for the fifteen hundred business leaders of the United States Business and Industrial Council, I offer our endorsement of H.R. 1578, the Stenholm-Spratt Enhanced Rescission bill. H.R. 1578 would establish a procedure requiring the consideration of rescissions proposed by the President, an important reform of our current budget law.

Let me make clear that the Council also strongly supports Line-Item Veto legislation. Reps. Gerald Solomon and Michael Castle will offer a line-item veto amendment during this debate.

Under current law, Congress can (and usually does) simply ignore presidential rescissions. If H.R. 1578 becomes law, it will require the Appropriations Committees of both Houses to discharge rescissions within seven days. The President could propose to rescind entire programs, and H.R. 1578 requires the House to vote on the President's proposal within ten legislative days. In short, Congress could no longer simply ignore presidential rescissions with Stenholm-Spratt in place.

We offer our support for Stenholm-Spratt and stand ready to help in securing it's passage.

Sincerely yours,

C. BRYAN LITTLE,
Director for Government Relations.

COUNCIL FOR CITIZENS AGAINST GOVERNMENT WASTE,
Washington, DC, April 20, 1993.

Hon. CHARLES STENHOLM,
U.S. House of Representatives,
Washington, DC.

DEAR MR. STENHOLM: I am writing to express the Council for Citizens Against Government Waste's (CCAGW) support for the Expedited Rescissions Act of 1993 (H.R. 1578) introduced by Rep. John Spratt and yourself. It is an improvement over the current system which allows Congress to ignore presidential rescission requests.

By forcing Congress to vote on presidential rescissions, some accountability will be restored to the way tax dollars are spent. It is our understanding that this legislation would allow the Office of Management and Budget to continue to withhold funds for obligation for targeted projects until Congress votes on the president's rescission package. This is an important provision that will ensure that Congress act on the package.

Taxpayers are angry about how Washington spends their hard-earned dollars. They are outraged that pork-barrel projects are funded year after year while our national debt continues to esca-

late. Your legislation takes an important first step in putting the taxpayers interest ahead of the special interests.

Sincerely,

TOM SCHATZ.

NATIONAL ASSOCIATION OF MANUFACTURERS,
Washington, DC, April 21, 1993.

Hon. CHARLES W. STENHOLM,
U.S. House of Representatives,
Washington, DC.

DEAR MR. STENHOLM: On behalf of the National Association of Manufacturers, I am writing in support of H.R. 1578, the "Modified Line Item Veto" bill. The NAM has long supported the concept of the line item veto as an effective tool for eliminating nonessential spending and restoring accountability to the budget process.

While the NAM's preference continues to be for stronger language allowing line item veto rather than rescission authority, we support H.R. 1578 as a realistic and beneficial budget process reform.

Sincerely,

JERRY J. JASINOWSKI.

TRADE ASSOCIATION LIAISON COUNCIL,
Washington, DC, April 16, 1993.

Hon. THOMAS S. FOLEY,
Longworth House Office Building,
Washington, DC.

DEAR MR. SPEAKER: We, the undersigned, respectfully urge you to support H.R. 1578, the "Modified Line-Item Veto" bill introduced by Representatives John Spratt and Charles Stenholm.

The Spratt-Stenholm "Modified Line-Item Veto" is a practical, positive step forward on the path toward restraint. Its passage would be an effective tool to eliminate wasteful spending. It can and should be passed by the House.

We also encourage you and your colleagues to support other line-item veto measures such as those sponsored by Representatives John Duncan and John Kasich, Senator John McCain, etc.

The only effective line-item veto will be one that is enacted into law. We believe that H.R. 1578 provides the best opportunity for passage in both the House and the Senate.

The Spratt-Stenholm "Modified Line-Item Veto" would be a major improvement to the current process. We urge you to support it on the floor of the House.

Sincerely,

Don Fuqua, Chairman, Trade Association Liaison Council, and President, Aerospace Industries Association of America; Paul C. Abenante, President, American Bakers Association; John R. Block, President, National-American Wholesale Grocers' Association; Nick J. Bush, President, National Gas Supply Association; Red Cavaney, President, American Forest & Paper Association; Regis Delmontagne, President,

NPES—The Association for the Suppliers of Printing and Publishing Technologies; Andy Doyle, Executive Director, National Paint & Coating Association; Joe G. Gerard, Vice President for Government Affairs, American Furniture Manufacturers Association; Roger Glunt, President, National Association of Home Builders; Richard J. Iverson, President, American Electronics Association; Jerry Jasinowski, President, National Association of Manufacturers; Tom Kuhn, President, Edison Electric Institute; Manly Molpus, President, Grocery Manufacturers of America; Malcolm O'Hagan, President, National Electrical Manufacturers Association; Barry Rogstad, President, American Business Conference; Larry L. Thomas, President, Society of the Plastics Industry; Wayne H. Valis, President, Valis Associates.

AMERICAN FARM BUREAU FEDERATION,
Washington, DC, April 26, 1993.

DEAR REPRESENTATIVE: The American Farm Bureau Federation, which represents over four million rural families throughout the country, believes that a balanced budget achieved through spending restraint is a high priority. Our members support a number of budget tools to accomplish this goal including a balanced budget amendment to the U.S. Constitution and presidential line-item veto.

While we prefer the enactment of legislative or constitutional changes to give the president pure line-item veto authority, we support the enhanced rescission authority contained in H.R. 1578. This bill, introduced by Representative Stenholm (D-Texas) and Representative Spratt (D-SC), would give the president the ability to rescind spending within three days of signing an appropriations bill. The rescissions would become effective if a majority of Congress approved the rescission package.

The enactment of this bill is critical to the process of gaining control of federal spending. We urge you to vote for H.R. 1578.

Sincerely,

DEAN R. KLECKNER,
President.

PARLIAMENTARY INQUIRY

Mr. SOLOMON. Madam Chairman, I have a parliamentary inquiry.

The CHAIRMAN pro tempore (Mrs. KENNELLY). The gentleman will state his parliamentary inquiry.

Mr. SOLOMON. Madam Chairman, there is some confusion as to the series of votes that may take place. I am confused myself.

I just want to know if it is true that the next vote that will occur in the Committee of the Whole, in which we are in now, will be on the modified Spratt amendment in the nature of a substitute that allows the Appropriations Committee to report an alternative to the President's rescission bill.

I am trying to find out for our side what is the difference between this vote coming up and the base text of the bill? No one seems to know.

The CHAIRMAN pro tempore. The gentleman is correct.

Mr. SOLOMON. Let me see what I am correct with, Madam Chairman.

The CHAIRMAN pro tempore. The gentleman is correct, because the next question is on the amendment in the nature of a substitute made in order as an original text. The vote will be taken in the Committee of the Whole.

Mr. SOLOMON. I thank the Chair.

The CHAIRMAN pro tempore. The question is on the amendment in the nature of a substitute made in order as original text.

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. DERRICK. Madam Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 247, noes 168, not voting 22, as follows:

[Roll No. 147]

AYES—247

Abercrombie	Costello	Gephardt
Ackerman	Coyne	Geren
Andrews (ME)	Cramer	Gibbons
Andrews (TX)	Danner	Glickman
Bacchus (FL)	Darden	Gordon
Baesler	de la Garza	Grandy
Barcia	Deal	Green
Barlow	DeFazio	Gutierrez
Barrett (WI)	DeLauro	Hall (OH)
Beilenson	DeLay	Hall (TX)
Bevill	Derrick	Hamburg
Bilbray	Deutsch	Hamilton
Blackwell	Dicks	Harman
Boehlert	Dingell	Hastings
Bonior	Dixon	Hayes
Borski	Dooley	Hefner
Boucher	Durbin	Hilliard
Brewster	Edwards (CA)	Hinchey
Browder	Edwards (TX)	Hoagland
Brown (CA)	Emerson	Hobson
Brown (OH)	Engel	Hochbrueckner
Bryant	English (AZ)	Holden
Byrne	English (OK)	Hoyer
Cantwell	Eshoo	Hughes
Carr	Fawell	Hutto
Chapman	Fazio	Inslee
Clay	Fields (LA)	Jacobs
Clement	Fingerhut	Jefferson
Clyburn	Flake	Johnson (CT)
Coleman	Foley	Johnson (GA)
Collins (GA)	Ford (MI)	Johnson (SD)
Collins (IL)	Ford (TN)	Johnson, E. B.
Condit	Frank (MA)	Johnston
Conyers	Frost	Kanjorski
Cooper	Furse	Kaptur
Coppersmith	Gejdenson	Kennelly

Kildee	Nadler	Shepherd
Kleczka	Natcher	Sisisky
Klink	Neal (MA)	Skaggs
Kopetski	Neal (NC)	Skelton
Kreidler	Norton (DC)	Slattery
LaFalce	Oberstar	Slaughter
Lambert	Obey	Smith (IA)
Lancaster	Olver	Smith (OR)
Lantos	Orton	Snowe
LaRocco	Owens	Spratt
Laughlin	Parker	Stark
Lehman	Pastor	Stenholm
Levin	Payne (NJ)	Stokes
Lewis (GA)	Payne (VA)	Strickland
Lightfoot	Pelosi	Studds
Lipinski	Penny	Stupak
Livingston	Peterson (FL)	Swett
Lloyd	Peterson (MN)	Swift
Long	Pickett	Tanner
Lowey	Pickle	Tauzin
Maloney	Pomeroy	Taylor (MS)
Mann	Poshard	Thompson
Manton	Price (NC)	Thornton
Margolies-Mezvinsky	Quinn	Thurman
Markey	Rahall	Torkildsen
Matsui	Rangel	Torricelli
Mazzoli	Regula	Tucker
McCloskey	Reynolds	Underwood (GU)
McCrery	Richardson	Unsoeld
McCurdy	Roberts	Valentine
McDermott	Roemer	Velazquez
McHale	Romero-Barcelo (PR)	Vento
McKeon	Rose	Visclosky
McNulty	Rostenkowski	Volkmer
Meehan	Roukema	Vucanovich
Meek	Rowland	Watt
Menendez	Rush	Waxman
Meyers	Sabo	Whitten
Mfume	Sangmeister	Williams
Miller (CA)	Sarpalius	Wilson
Mineta	Sawyer	Wise
Moakley	Schenk	Wyden
Mollohan	Schroeder	Wynn
Montgomery	Schumer	Yates
Moran	Scott	Zimmer
Murphy	Sharp	
Murtha	Shays	

NOES—168

Allard	Blute	Crane
Andrews (NJ)	Boehner	Crapo
Applegate	Bonilla	Cunningham
Archer	Brown (FL)	Diaz-Balart
Armey	Bunning	Dickey
Bachus (AL)	Burton	Doolittle
Baker (CA)	Buyer	Dornan
Baker (LA)	Callahan	Dreier
Ballenger	Camp	Duncan
Barrett (NE)	Canady	Dunn
Bartlett	Cardin	Evans
Bateman	Castle	Everett
Bentley	Clayton	Ewing
Bereuter	Clinger	Filner
Bilirakis	Coble	Fish
Bishop	Combest	Fowler
Bliley	Cox	Franks (CT)

Franks (NJ)	Kolbe	Ridge
Gallegly	Kyl	Rogers
Gallo	Lazio	Rohrabacher
Gekas	Leach	Ros-Lehtinen
Gilchrest	Levy	Roth
Gillmor	Lewis (CA)	Royce
Gilman	Lewis (FL)	Sanders
Gingrich	Linder	Santorum
Gonzalez	Machtley	Saxton
Goodlatte	Manzullo	Schaefer
Goodling	Martinez	Schiff
Goss	McCandless	Sensenbrenner
Grams	McCollum	Shaw
Greenwood	McDade	Shuster
Gunderson	McHugh	Skeen
Hancock	McInnis	Smith (MI)
Hansen	McKinney	Smith (NJ)
Hastert	McMillan	Smith (TX)
Hefley	Mica	Solomon
Herger	Michel	Spence
Hoekstra	Miller (FL)	Stearns
Hoke	Minge	Stump
Horn	Mink	Sundquist
Houghton	Molinari	Synar
Huffington	Moorhead	Talent
Hunter	Morella	Taylor (NC)
Hutchinson	Myers	Tejeda
Hyde	Nussle	Thomas (WY)
Inglis	Oxley	Traficant
Inhofe	Packard	Upton
Istook	Pallone	Walker
Johnson, Sam	Paxon	Walsh
Kasich	Petri	Waters
Kim	Pombo	Weldon
King	Porter	Wolf
Kingston	Pryce (OH)	Woolsey
Klein	Ramstad	Young (AK)
Klug	Ravenel	Young (FL)
Knollenberg	Reed	Zeliff

NOT VOTING—22

Barton	Faleomavaega (AS)	Serrano
Becerra	Fields (TX)	Thomas (CA)
Berman	Foglietta	Torres
Brooks	Henry	Towns
Calvert	Kennedy	Washington
Collins (MI)	Ortiz	Wheat
de Lugo (VI)	Quillen	
Dellums	Roybal-Allard	

The Clerk announced the following pair:

On this vote:

Mr. Dellums for, with Mr. Calvert against.

Messrs. HILLIARD, THOMPSON, YATES, and ENGEL changed their vote from "no" to "aye."

So the amendment in the nature of a substitute made in order as original text was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN pro tempore (Mrs. KENNELLY). Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having assumed the chair, Mrs. KENNELLY, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R.

1578) to amend the Congressional Budget and Impoundment Control Act of 1974 to provide for the expedited consideration of certain proposed rescissions of budget authority, pursuant to House Resolution 149, she reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered. The question is on the amendment.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. WALKER. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—yeas 248, nays 163, not voting 21, as follows:

[Roll No. 148]

AYES—248

Abercrombie	Darden	Hastings
Ackerman	de la Garza	Hayes
Andrews (ME)	Deal	Hefner
Andrews (TX)	DeFazio	Hilliard
Bacchus (FL)	DeLauro	Hinchey
Baesler	DeLay	Hoagland
Barcia	Derrick	Hobson
Barlow	Deutsch	Hochbrueckner
Barrett (WI)	Dicks	Holden
Beilenson	Dingell	Hoyer
Bevill	Dixon	Hughes
Bilbray	Dooley	Hutto
Bishop	Durbin	Inslee
Blackwell	Edwards (CA)	Jacobs
Blute	Edwards (TX)	Jefferson
Boehlert	Emerson	Johnson (CT)
Bonior	Engel	Johnson (GA)
Borski	English (AZ)	Johnson (SD)
Boucher	English (OK)	Johnson, E.B.
Brewster	Eshoo	Johnston
Brooks	Fawell	Kanjorski
Browder	Fazio	Kaptur
Brown (CA)	Fields (LA)	Kennelly
Brown (FL)	Fingerhut	Kildee
Brown (OH)	Flake	Klecza
Bryant	Foley	Klink
Byrne	Ford (MI)	Kopetski
Cantwell	Ford (TN)	Kreidler
Carr	Frank (MA)	LaFalce
Chapman	Frost	Lambert
Clay	Furse	Lancaster
Clayton	Gejdenson	Lantos
Clement	Gephardt	LaRocco
Clyburn	Geren	Laughlin
Coleman	Gibbons	Lehman
Collins (GA)	Glickman	Levin
Collins (IL)	Gonzalez	Lewis (GA)
Collins (MI)	Gordon	Lightfoot
Condit	Grandy	Lipinski
Conyers	Green	Livingston
Cooper	Gutierrez	Lloyd
Coppersmith	Hall (OH)	Long
Costello	Hall (TX)	Lowey
Coyne	Hamburg	Maloney
Cramer	Hamilton	Mann
Danner	Harman	Manton

Margolies-Mezvinsky	Payne (VA)	Slaughter
Markey	Pelosi	Smith (IA)
Matsui	Penny	Smith (OR)
Mazzoli	Peterson (FL)	Snowe
McCloskey	Peterson (MN)	Spratt
McCrery	Pickle	Stark
McCurdy	Pomeroy	Stenholm
McDermott	Poshard	Stokes
McHale	Price (NC)	Strickland
McKeon	Quinn	Studds
McKinney	Rahall	Stupak
McNulty	Rangel	Swett
Meehan	Regula	Swift
Meek	Reynolds	Tanner
Menendez	Richardson	Tauzin
Meyers	Roberts	Taylor (MS)
Mfume	Roemer	Thompson
Miller (CA)	Rose	Thornton
Mineta	Rostenkowski	Thurman
Moakley	Roukema	Torkildsen
Mollohan	Rowland	Tucker
Montgomery	Rush	Unsoeld
Moran	Sabo	Valentine
Murphy	Sangmeister	Velazquez
Murtha	Sarpalius	Visclosky
Nadler	Sawyer	Volkmer
Natcher	Schenk	Vucanovich
Neal (MA)	Schroeder	Watt
Neal (NC)	Schumer	Whitten
Oberstar	Scott	Williams
Obey	Sharp	Wilson
Olver	Shays	Wise
Orton	Shepherd	Wyden
Owens	Sisisky	Wynn
Parker	Skaggs	Yates
Pastor	Skelton	Zimmer
Payne (NJ)	Slattery	

NOES—163

Allard	Coble	Gingrich
Andrews (NJ)	Combest	Goodlatte
Applegate	Cox	Goodling
Archer	Crane	Goss
Armey	Crapo	Grams
Bachus (AL)	Cunningham	Greenwood
Baker (CA)	Diaz-Balart	Gunderson
Baker (LA)	Dickey	Hancock
Ballenger	Doolittle	Hansen
Barrett (NE)	Dornan	Hastert
Bartlett	Dreier	Hefley
Bateman	Duncan	Herger
Bentley	Dunn	Hoekstra
Bereuter	Evans	Hoke
Bilirakis	Everett	Horn
Bliley	Ewing	Houghton
Boehner	Filner	Huffington
Bonilla	Fish	Hunter
Bunning	Fowler	Hutchinson
Burton	Franks (CT)	Hyde
Buyer	Franks (NJ)	Inglis
Callahan	Gallegly	Inhofe
Camp	Gallo	Istook
Canady	Gekas	Johnson, Sam
Cardin	Gilchrest	Kasich
Castle	Gillmor	Kim
Clinger	Gilman	King

Kingston	Morella	Skeen
Klein	Myers	Smith (MI)
Klug	Nussle	Smith (NJ)
Knollenberg	Oxley	Smith (TX)
Kolbe	Packard	Solomon
Kyl	Pallone	Spence
Lazio	Paxon	Stearns
Leach	Petri	Stump
Levy	Pombo	Sundquist
Lewis (CA)	Porter	Synar
Lewis (FL)	Pryce (OH)	Talent
Linder	Ramstad	Taylor (NC)
Machtley	Ravenel	Tejeda
Manzullo	Reed	Thomas (CA)
Martinez	Ridge	Torricelli
McCandless	Rogers	Traficant
McCollum	Rohrabacher	Upton
McDade	Ros-Lehtinen	Walker
McHugh	Roth	Walsh
McInnis	Royce	Waters
McMillan	Sanders	Weldon
Mica	Santorum	Wolf
Michel	Saxton	Woolsey
Miller (FL)	Schaefer	Young (AK)
Minge	Schiff	Young (FL)
Mink	Sensenbrenner	Zeliff
Molinari	Shaw	
Moorhead	Shuster	

NOT VOTING—21

Barton	Henry	Thomas (WY)
Becerra	Kennedy	Torres
Berman	Ortiz	Towns
Calvert	Pickett	Vento
Dellums	Quillen	Washington
Fields (TX)	Roybal-Allard	Waxman
Foglietta	Serrano	Wheat

The Clerk announced the following pair:

On this vote:

Mr. Dellums for, with Mr. Calvert against.

Mr. MCCANDLESS changed his vote from "aye" to "no."

Mrs. MALONEY, Mr. BISHOP, and Ms. BROWN of Florida changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. CLINGER

Mr. CLINGER. Mr. Speaker, I offer a motion to recommit.

The SPEAKER. Is the gentleman opposed to the bill?

Mr. CLINGER. I am, in its present form, Mr. Speaker.

The SPEAKER. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. CLINGER moves to recommit the bill (H.R. 1578) to the Committee on Rules with instructions to report back the same forthwith to the House with the following amendment:

Strike section 2(b) of the bill and substitute the following:

“(b) EXERCISE OF RULEMAKING POWERS.—(1) The provisions of this Act, insofar as they affect the procedures of either House, may only be waived, changed or suspended by statutory enactment or by a vote of three-fifths of the Members of the House involved, a quorum being present.

“(2) It shall not be in order in the House of Representatives to consider any rescission bill introduced pursuant to the provisions of this Act under a suspension of the rules or under a special rule.”.

The SPEAKER. The gentleman from Pennsylvania [Mr. CLINGER] is recognized for 5 minutes in support of his motion to recommit.

Mr. CLINGER. Mr. Speaker, I will be very brief on my motion to recommit, but this is the last chance we will have today to do something right by closing a loophole that is big enough to drive the proverbial Mack truck through.

Under the terms of section 2(b) of the bill, the provisions of the bill are brought under section 904 of the Budget Act. That section states that the procedures are enacted as part of the rulemaking authority of the House and Senate and may be changed at any time by either House, the same as any other rule of the House.

What that means is that this bill's so-called teeth can be yanked at any time by a simple resolution from the Rules Committee that waives, suspends or changes these provisions. The Rules Committee could recommend that we allow the President's bill to be amended, or that we simply suspend the rescission act for a particular message, or for the rest of the Congress.

What this motion to recommit does is three things: first, it strikes the references to the Budget Act that allow this bill to be changed by simple majority vote of either House. In its place the motion to recommit requires that the procedures contained in this bill can only be changed by statutory enactment or by a vote of three-fifths of the Members of the House involved. Finally, the motion to recommit specifically prohibits a consideration of a Presidential rescission bill under a suspension of the rules or under a special rule.

Mr. Speaker, I would strongly urge adoption of this motion. It will at least put some teeth into the law by requiring a new law or a super-majority in congress to waive, change or suspend the Expedited Rescissions Act.

Mr. SOLOMON. Mr. Speaker, will the gentleman yield?

Mr. CLINGER. I yield to the ranking member of the Committee on Rules, the gentleman from New York [Mr. SOLOMON].

Mr. SOLOMON. Mr. Speaker, I would just say to the gentleman, the ranking member of the Committee on Government Operations, who mentioned this would put some teeth back in, here is our chance to at least put one tooth back in, not a mouthful of teeth, into this bill.

What the bill does, what the motion to recommit does, it says that we do not want to make it possible to waive or suspend those procedures by majority vote. Instead, we would need a three-fifths vote. If we were going to waive the Budget Act up in the Committee on Rules, that would void this bill.

The Members do not want to do this. I think those of us who are going to vote for this rescission bill certainly ought to vote for it. I would urge the Members' support for the motion to recommit.

Mr. CLINGER. Mr. Speaker, I thank the gentleman for his contribution, and would urge that everybody vote to close this gaping loophole as it is presently structured.

The SPEAKER. The Chair recognizes the gentleman from South Carolina [Mr. DERRICK] for 5 minutes in opposition to the motion to recommit.

Mr. DERRICK. Mr. Speaker, I would say to the Members, if they like the way the U.S. Senate operates, they ought to vote for this motion to recommit, because that is exactly what they would get. The amendment in the motion to recommit proposes to require a 60-percent super majority to change these procedures. Such a rule would allow 40 percent plus one of the House, in other words, the minority, to run this place. I would ask the majority to take that into account.

It is a bad idea, and I advise a "no" vote on the motion to recommit.

The SPEAKER. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER. The question is on the motion to recommit. The question was taken; and the Speaker announced that the yeas appeared to have it.

RECORDED VOTE

Mr. CLINGER. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 182, yeas 233, not voting 17, as follows:

[Roll No. 149]

AYES—182

Allard	Canady	Emerson
Archer	Cantwell	Everett
Armey	Cardin	Ewing
Bachus (AL)	Castle	Fawell
Baker (CA)	Clinger	Fish
Baker (LA)	Coble	Fowler
Ballenger	Collins (GA)	Franks (CT)
Barrett (NE)	Combest	Franks (NJ)
Bartlett	Condit	Gallegly
Bateman	Cooper	Gallo
Bentley	Coppersmith	Gekas
Bereuter	Cox	Geren
Bilirakis	Crane	Gibbons
Bliley	Crapo	Gilchrest
Blue	Cunningham	Gillmor
Boehlert	DeLay	Gilman
Boehner	Diaz-Balart	Gingrich
Bonilla	Dickey	Goodlatte
Bunning	Doolittle	Goodling
Burton	Dornan	Goss
Buyer	Dreier	Grams
Callahan	Duncan	Grandy
Camp	Dunn	Greenwood

Gunderson	Machtley	Roukema
Hall (TX)	Manzullo	Royce
Hancock	McCandless	Santorum
Hansen	McCollum	Saxton
Hastert	McCrery	Schaefer
Hayes	McDade	Schiff
Hefley	McHugh	Sensenbrenner
Herger	McInnis	Shaw
Hobson	McKeon	Shays
Hoekstra	McMillan	Shuster
Hoke	Meyers	Skeen
Horn	Mica	Smith (MI)
Houghton	Michel	Smith (NJ)
Huffington	Miller (FL)	Smith (OR)
Hunter	Minge	Smith (TX)
Hutchinson	Molinari	Snowe
Hyde	Moorhead	Solomon
Inglis	Morella	Spence
Inhofe	Myers	Stearns
Istook	Nussle	Stump
Johnson (CT)	Oxley	Sundquist
Johnson, Sam	Packard	Talent
Kasich	Parker	Tauzin
Kim	Paxon	Taylor (NC)
King	Petri	Thomas (CA)
Kingston	Pombo	Thomas (WY)
Klug	Porter	Torkildsen
Knollenberg	Pryce (OH)	Upton
Kolbe	Quinn	Vucanovich
Kyl	Ramstad	Walker
Lazio	Ravenel	Walsh
Leach	Regula	Weldon
Levy	Ridge	Wolf
Lewis (CA)	Roberts	Young (AK)
Lewis (FL)	Rogers	Young (FL)
Lightfoot	Rohrabacher	Zeliff
Linder	Ros-Lehtinen	Zimmer
Livingston	Roth	

NOES—233

Abercrombie	Byrne	Durbin
Ackerman	Carr	Edwards (CA)
Andrews (ME)	Chapman	Edwards (TX)
Andrews (NJ)	Clay	Engel
Andrews (TX)	Clayton	English (AZ)
Applegate	Clement	English (OK)
Bacchus (FL)	Clyburn	Eshoo
Baesler	Coleman	Evans
Barcia	Collins (IL)	Fazio
Barlow	Collins (MI)	Fields (LA)
Barrett (WI)	Conyers	Filner
Beilenson	Costello	Fingerhut
Bevill	Coyne	Flake
Bilbray	Cramer	Foley
Bishop	Danner	Ford (MI)
Blackwell	Darden	Ford (TN)
Bonior	de la Garza	Frank (MA)
Borski	Deal	Frost
Boucher	DeFazio	Furse
Brewster	DeLauro	Gejdenson
Brooks	Derrick	Gephardt
Browder	Deutsch	Glickman
Brown (CA)	Dicks	Gonzalez
Brown (FL)	Dingell	Gordon
Brown (OH)	Dixon	Green
Bryant	Dooley	Gutierrez

Hall (OH)	McCurdy	Sangmeister
Hamburg	McDermott	Sarpalius
Hamilton	McHale	Sawyer
Harman	McKinney	Schenk
Hastings	McNulty	Schroeder
Hefner	Meehan	Schumer
Hilliard	Meek	Scott
Hinchey	Menendez	Sharp
Hoagland	Mfume	Shepherd
Hochbrueckner	Miller (CA)	Sisisky
Holden	Mineta	Skaggs
Hoyer	Mink	Skelton
Hughes	Moakley	Slattery
Hutto	Mollohan	Slaughter
Inslee	Montgomery	Smith (IA)
Jacobs	Moran	Spratt
Jefferson	Murphy	Stark
Johnson (GA)	Murtha	Stenholm
Johnson (SD)	Nadler	Stokes
Johnson, E. B.	Natcher	Strickland
Johnston	Neal (MA)	Studds
Kanjorski	Neal (NC)	Stupak
Kaptur	Oberstar	Swett
Kennelly	Obey	Swift
Kildee	Olver	Synar
Klecza	Orton	Tanner
Klein	Owens	Taylor (MS)
Klink	Pallone	Tejeda
Kopetski	Pastor	Thompson
Kreidler	Payne (NJ)	Thornton
LaFalce	Payne (VA)	Thurman
Lambert	Pelosi	Torricelli
Lancaster	Penny	Traficant
Lantos	Peterson (FL)	Tucker
LaRocco	Peterson (MN)	Unsoeld
Laughlin	Pickett	Valentine
Lehman	Pickle	Velazquez
Levin	Pomeroy	Vento
Lewis (GA)	Poshard	Visclosky
Lipinski	Price (NC)	Volkmer
Lloyd	Rahall	Waters
Long	Rangel	Watt
Lowey	Reed	Waxman
Maloney	Reynolds	Whitten
Mann	Richardson	Williams
Manton	Roemer	Wilson
Margolies-Mezvinsky	Rose	Wise
Markey	Rostenkowski	Woolsey
Martinez	Rowland	Wyden
Matsui	Rush	Wynn
Mazzoli	Sabo	Yates
McCloskey	Sanders	

NOT VOTING—17

Barton	Foglietta	Serrano
Becerra	Henry	Torres
Berman	Kennedy	Towns
Calvert	Ortiz	Washington
Dellums	Quillen	Wheat
Fields (TX)	Roybal-Allard	

The Clerk announced the following pair:

On this vote:

Mr. Calvert for with Mr. Dellums against.

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER. The question is on the passage of the bill.

The question was taken; and the Speaker announced that the ayes appeared to have it.

RECORDED VOTE

Mr. WALKER. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 258, noes 157, not voting 17, as follows:

[Roll No. 150]

AYES—258

Ackerman	Derrick	Hinchey
Allard	Deutsch	Hoagland
Andrews (ME)	Dickey	Hochbrueckner
Andrews (NJ)	Dicks	Hoekstra
Andrews (TX)	Dingell	Hoke
Bacchus (FL)	Dooley	Holden
Bachus (AL)	Duncan	Horn
Baesler	Dunn	Houghton
Baker (LA)	Durbin	Hoyer
Barcia	Edwards (TX)	Huffington
Barlow	Emerson	Hughes
Barrett (NE)	English (AZ)	Hutchinson
Barrett (WI)	English (OK)	Hutto
Bateman	Eshoo	Inglis
Beilenson	Ewing	Inhofe
Bereuter	Fawell	Inslee
Bevill	Fazio	Jacobs
Bilbray	Fingerhut	Johnson (CT)
Bishop	Fish	Johnson (GA)
Blute	Foley	Johnson (SD)
Boehlert	Fowler	Johnson, E.B.
Bonilla	Frank (MA)	Johnston
Boucher	Franks (NJ)	Kanjorski
Brewster	Frost	Kaptur
Browder	Furse	Kennelly
Brown (CA)	Gallo	Kildee
Brown (OH)	Gejdenson	Kim
Bryant	Gekas	Kingston
Buyer	Gephardt	Klecza
Byrne	Geren	Klein
Canady	Gibbons	Klink
Cantwell	Glickman	Klug
Cardin	Gonzalez	Kopetski
Castle	Goodlatte	Kreidler
Chapman	Goodling	LaFalce
Clement	Gordon	Lambert
Collins (GA)	Goss	Lancaster
Condit	Grams	Lantos
Conyers	Grandy	LaRocco
Cooper	Green	Laughlin
Coppersmith	Greenwood	Lazio
Costello	Gunderson	Leach
Cox	Gutierrez	Lehman
Cramer	Hall (OH)	Levin
Crapo	Hall (TX)	Levy
Danner	Hamilton	Lipinski
Darden	Harman	Lloyd
de la Garza	Hastert	Long
Deal	Hayes	Machtley
DeFazio	Hefley	Maloney
DeLauro	Hefner	Mann

Manton	Peterson (FL)	Smith (MI)
Manzullo	Peterson (MN)	Smith (NJ)
Margolies-Mezvinsky	Petri	Smith (OR)
Markey	Pickett	Snowe
Mazzoli	Pickle	Spratt
McCloskey	Pombo	Stark
McCrery	Pomeroy	Stenholm
McCurdy	Porter	Strickland
McDermott	Poshard	Studds
McHale	Price (NC)	Stupak
McInnis	Quinn	Sundquist
McKeon	Ramstad	Swett
McMillan	Regula	Tanner
McNulty	Richardson	Tauzin
Meehan	Roberts	Taylor (MS)
Meyers	Roemer	Thornton
Mica	Rose	Thurman
Miller (CA)	Roth	Torkildsen
Miller (FL)	Roukema	Torricelli
Mineta	Rowland	Upton
Minge	Sangmeister	Valentine
Moakley	Sawyer	Vento
Montgomery	Saxton	Visclosky
Moran	Schaefer	Volkmer
Morella	Schenk	Waters
Murphy	Schumer	Weldon
Natcher	Sensenbrenner	Williams
Neal (MA)	Sharp	Wilson
Neal (NC)	Shaw	Wise
Obey	Shays	Wyden
Olver	Shepherd	Wynn
Orton	Sisisky	Zeliff
Pallone	Skaggs	Zimmer
Parker	Skelton	
Payne (VA)	Slattery	
Penny	Slaughter	

NOES—157

Abercrombie	Collins (MI)	Hansen
Applegate	Combest	Hastings
Archer	Coyne	Herger
Armey	Crane	Hilliard
Baker (CA)	Cunningham	Hobson
Ballenger	DeLay	Hunter
Bartlett	Diaz-Balart	Hyde
Bentley	Dixon	Istook
Bilirakis	Doolittle	Jefferson
Blackwell	Dornan	Johnson, Sam
Bliley	Dreier	Kasich
Boehner	Edwards (CA)	King
Bonior	Engel	Knollenberg
Borski	Evans	Kolbe
Brooks	Everett	Kyl
Brown (FL)	Fields (LA)	Lewis (CA)
Bunning	Filner	Lewis (FL)
Burton	Flake	Lewis (GA)
Callahan	Ford (MI)	Lightfoot
Camp	Ford (TN)	Linder
Carr	Franks (CT)	Livingston
Clay	Gallegly	Lowey
Clayton	Gilchrest	Martinez
Clinger	Gillmor	Matsui
Clyburn	Gilman	McCandless
Coble	Gingrich	McCollum
Coleman	Hamburg	McDade
Collins (IL)	Hancock	McHugh

McKinney	Reed	Swift
Meek	Reynolds	Synar
Menendez	Ridge	Talent
Mfume	Rogers	Taylor (NC)
Michel	Rohrabacher	Tejeda
Mink	Ros-Lehtinen	Thomas (CA)
Molinari	Rostenkowski	Thomas (WY)
Mollohan	Royce	Thompson
Moorhead	Rush	Trafigant
Murtha	Sabo	Tucker
Myers	Sanders	Unsoeld
Nadler	Santorum	Velázquez
Nussle	Sarpalius	Vucanovich
Oberstar	Schiff	Walker
Owens	Schroeder	Walsh
Oxley	Scott	Watt
Packard	Shuster	Waxman
Pastor	Skeen	Whitten
Paxon	Smith (IA)	Wolf
Payne (NJ)	Smith (TX)	Woolsey
Pelosi	Solomon	Yates
Pryce (OH)	Spence	Young (AK)
Rahall	Stearns	Young (FL)
Rangel	Stokes	
Ravenel	Stump	

NOT VOTING—17

Barton	Foglietta	Serrano
Becerra	Henry	Torres
Berman	Kennedy	Towns
Calvert	Ortiz	Washington
Dellums	Quillen	Wheat
Fields (TX)	Roybal-Allard	

The Clerk announced the following pairs:

On this vote:

Mr. Kennedy for, with Mr. Torres against.

Mr. Calvert for, with Mr. Dellums against.

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

May 4, 1993

[From the Congressional Record page S5393]

MEASURE REFERRED

The following bill was read the first and second times by unanimous consent, and referred as indicated:

“H.R. 1578. An act to amend the Congressional Budget and Impoundment Control Act of 1974 to provide for the expedited consideration of certain proposed rescissions of budget authority; referred jointly, pursuant to the order of August 4, 1977, to the Committee on the Budget and to the Committee on Governmental Affairs.”

June 17, 1993

[From the Congressional Record page H4721]

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. SPRATT:

H.R. 4600. A bill to amend the Congressional Budget and Impoundment Control Act of 1974 to provide for the expedited consideration of certain proposed rescissions of budget authority; jointly, to the Committees on Government Operations and Rules.

103D CONGRESS
2D SESSION

H. R. 4600

IN THE SENATE OF THE UNITED STATES

JULY 15 (legislative day, JULY 11), 1994

Received; read twice and referred jointly pursuant to the order of August 4, 1977, to the Committees on the Budget and Governmental Affairs, with instructions that if one committee reports, the other committee have thirty days to report or be discharged

AN ACT

To amend the Congressional Budget and Impoundment Control Act of 1974 to provide for the expedited consideration of certain proposed rescissions of budget authority.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. EXPEDITED CONSIDERATION OF CERTAIN PRO-**
4 **POSED RESCISSIONS AND TARGETED TAX**
5 **BENEFITS.**

6 (a) IN GENERAL.—Section 1012 of the Congressional
7 Budget and Impoundment Control Act of 1974 (2 U.S.C.
8 683) is amended to read as follows:

1 "EXPEDITED CONSIDERATION OF CERTAIN PROPOSED
2 RESCISSIONS

3 "SEC. 1012. (a) PROPOSED RESCISSION OF BUDGET
4 AUTHORITY OR REPEAL OF TARGETED TAX BENEFITS.—

5 The President may propose, at the time and in the manner
6 provided in subsection (b), the rescission of any budget
7 authority provided in an appropriation Act or repeal of
8 any targeted tax benefit provided in any revenue Act.
9 Funds made available for obligation under this procedure
10 may not be proposed for rescission again under this sec-
11 tion.

12 "(b) TRANSMITTAL OF SPECIAL MESSAGE.—

13 "(1) The President may transmit to Congress a
14 special message proposing to rescind amounts of
15 budget authority or to repeal any targeted tax bene-
16 fit and include with with that special message a
17 draft bill that, if enacted, would only rescind that
18 budget authority or repeal that targeted tax benefit.
19 That bill shall clearly identify the amount of budget
20 authority that is proposed to be rescinded for each
21 program, project, or activity to which that budget
22 authority relates or the targeted tax benefit pro-
23 posed to be repealed, as the case may be. It shall in-
24 clude a Deficit Reduction Account. The President
25 may place in the Deficit Reduction Account an

1 amount not to exceed the total rescissions in that
2 bill. A targeted tax benefit may only be proposed to
3 be repealed under this section during the 20-cal-
4 endar-day period (excluding Saturdays, Sundays,
5 and legal holidays) commencing on the day after the
6 date of enactment of the provision proposed to be re-
7 pealed.

8 “(2) In the case of an appropriation Act that
9 includes accounts within the jurisdiction of more
10 than one subcommittee of the Committee on Appro-
11 priations, the President in proposing to rescind
12 budget authority under this section shall send a sep-
13 arate special message and accompanying draft bill
14 for accounts within the jurisdiction of each such sub-
15 committee.

16 “(3) Each special message shall specify, with
17 respect to the budget authority proposed to be re-
18 scinded, the following—

19 “(A) the amount of budget authority which
20 he proposes to be rescinded;

21 “(B) any account, department, or estab-
22 lishment of the Government to which such
23 budget authority is available for obligation, and
24 the specific project or governmental functions
25 involved;

1 “(C) the reasons why the budget authority
2 should be rescinded;

3 “(D) to the maximum extent practicable,
4 the estimated fiscal, economic, and budgetary
5 effect (including the effect on outlays and re-
6 ceipts in each fiscal year) of the proposed re-
7 scission; and

8 “(E) all facts, circumstances, and consider-
9 ations relating to or bearing upon the proposed
10 rescission and the decision to effect the pro-
11 posed rescission, and to the maximum extent
12 practicable, the estimated effect of the proposed
13 rescission upon the objects, purposes, and pro-
14 grams for which the budget authority is pro-
15 vided.

16 Each special message shall specify, with respect to
17 the proposed repeal of targeted tax benefits, the in-
18 formation required by subparagraphs (C), (D), and
19 (E), as it relates to the proposed repeal.

20 “(c) PROCEDURES FOR EXPEDITED CONSIDER-
21 ATION.—

22 “(1)(A) Before the close of the second legisla-
23 tive day of the House of Representatives after the
24 date of receipt of a special message transmitted to
25 Congress under subsection (b), the majority leader

5

1 or minority leader of the House of Representatives
2 shall introduce (by request) the draft bill accom-
3 panying that special message. If the bill is not intro-
4 duced as provided in the preceding sentence, then,
5 on the third legislative day of the House of Rep-
6 resentatives after the date of receipt of that special
7 message, any Member of that House may introduce
8 the bill.

9 “(B) The bill shall be referred to the Commit-
10 tee on Appropriations or the Committee on Ways
11 and Means of the House of Representatives, as ap-
12 plicable. The committee shall report the bill without
13 substantive revision and with or without rec-
14 ommendation. The bill shall be reported not later
15 than the seventh legislative day of that House after
16 the date of receipt of that special message. If that
17 committee fails to report the bill within that period,
18 that committee shall be automatically discharged
19 from consideration of the bill, and the bill shall be
20 placed on the appropriate calendar.

21 “(C)(i) During consideration under this para-
22 graph, any Member of the House of Representatives
23 may move to strike any proposed rescission or re-
24 scissions of budget authority or any proposed repeal

1 of a target tax benefit, as applicable, if supported by
2 49 other Members.

3 “(ii) It shall not be in order for a Member of
4 the House of Representatives to move to strike any
5 proposed rescission under clause (i) unless the
6 amendment reduces the appropriate Deficit Reduc-
7 tion Account if the program, project, or account to
8 which the proposed rescission applies was identified
9 in the Deficit Reduction Account in the special mes-
10 sage under subsection (b).

11 “(D) A vote on final passage of the bill shall be
12 taken in the House of Representatives on or before
13 the close of the 10th legislative day of that House
14 after the date of the introduction of the bill in that
15 House. If the bill is passed, the Clerk of the House
16 of Representatives shall cause the bill to be en-
17 grossed, certified, and transmitted to the Senate
18 within one calendar day of the day on which the bill
19 is passed.

20 “(2)(A) A motion in the House of Representa-
21 tives to proceed to the consideration of a bill under
22 this section shall be highly privileged and not debat-
23 able. An amendment to the motion shall not be in
24 order, nor shall it be in order to move to reconsider

1 the vote by which the motion is agreed to or dis-
2 agreed to.

3 “(B) Debate in the House of Representatives
4 on a bill under this section shall not exceed 4 hours,
5 which shall be divided equally between those favoring
6 and those opposing the bill. A motion further to
7 limit debate shall not be debatable. It shall not be
8 in order to move to recommit a bill under this sec-
9 tion or to move to reconsider the vote by which the
10 bill is agreed to or disagreed to.

11 “(C) Appeals from decisions of the Chair relat-
12 ing to the application of the Rules of the House of
13 Representatives to the procedure relating to a bill
14 under this section shall be decided without debate.

15 “(D) Except to the extent specifically provided
16 in the preceding provisions of this subsection, con-
17 sideration of a bill under this section shall be gov-
18 erned by the Rules of the House of Representatives.
19 It shall not be in order in the House of Representa-
20 tives to consider any rescission bill introduced pursu-
21 ant to the provisions of this section under a suspen-
22 sion of the rules or under a special rule.

23 “(3)(A) A bill transmitted to the Senate pursu-
24 ant to paragraph (1)(D) shall be referred to its
25 Committee on Appropriations or Committee on Fi-

1 nance, as applicable. That committee shall report
2 the bill without substantive revision and with or
3 without recommendation. The bill shall be reported
4 not later than the seventh legislative day of the Sen-
5 ate after it receives the bill. A committee failing to
6 report the bill within such period shall be automati-
7 cally discharged from consideration of the bill, and
8 the bill shall be placed upon the appropriate cal-
9 endar.

10 “(B)(i) During consideration under this para-
11 graph, any Member of the Senate may move to
12 strike any proposed rescission or rescissions of budg-
13 et authority or any proposed repeal of a targeted tax
14 benefit, as applicable, if supported by 14 other Mem-
15 bers.

16 “(ii) It shall not be in order for a Member of
17 the House or Senate to move to strike any proposed
18 rescission under clause (i) unless the amendment re-
19 duces the appropriate Deficit Reduction Account
20 (pursuant to section 314) if the program, project, or
21 account to which the proposed rescission applies was
22 identified in the Deficit Reduction Account in the
23 special message under subsection (b).

24 “(4)(A) A motion in the Senate to proceed to
25 the consideration of a bill under this section shall be

1 privileged and not debatable. An amendment to the
2 motion shall not be in order, nor shall it be in order
3 to move to reconsider the vote by which the motion
4 is agreed to or disagreed to.

5 “(B) Debate in the Senate on a bill under this
6 section, and all debatable motions and appeals in
7 connection therewith, (including debate pursuant to
8 subparagraph (C)), shall not exceed 10 hours. The
9 time shall be equally divided between, and controlled
10 by, the majority leader and the minority leader or
11 their designees.

12 “(C) Debate in the Senate on any debatable
13 motion or appeal in connection with a bill under this
14 section shall be limited to not more than 1 hour, to
15 be equally divided between, and controlled by, the
16 mover and the manager of the bill, except that in
17 the event the manager of the bill is in favor of any
18 such motion or appeal, the time in opposition there-
19 to, shall be controlled by the minority leader or his
20 designee. Such leaders, or either of them, may, from
21 time under their control on the passage of a bill,
22 allot additional time to any Senator during the con-
23 sideration of any debatable motion or appeal.

24 “(D) A motion in the Senate to further limit
25 debate on a bill under this section is not debatable.

1 A motion to recommit a bill under this section is not
2 in order.

3 “(d) AMENDMENTS AND DIVISIONS PROHIBITED.—

4 Except as otherwise provided by this section, no amend-
5 ment to a bill considered under this section shall be in
6 order in either the House of Representatives or the Sen-
7 ate. It shall not be in order to demand a division of the
8 question in the House of Representatives (or in a Commit-
9 tee of the Whole) or in the Senate. No motion to suspend
10 the application of this subsection shall be in order in either
11 House, nor shall it be in order in either House to suspend
12 the application of this subsection by unanimous consent.

13 “(e) REQUIREMENT TO MAKE AVAILABLE FOR OBLI-
14 GATION.—(1) Any amount of budget authority proposed
15 to be rescinded in a special message transmitted to Con-
16 gress under subsection (b) shall be made available for obli-
17 gation on the day after the date on which either House
18 rejects the bill transmitted with that special message.

19 “(2) Any targeted tax benefit proposed to be repealed
20 under this section as set forth in a special message trans-
21 mitted to Congress under subsection (b) shall be deemed
22 repealed unless, during the period described in that sub-
23 section, either House rejects the bill transmitted with that
24 special message.

25 “(f) DEFINITIONS.—For purposes of this section—

1 “(1) the term ‘appropriation Act’ means any
2 general or special appropriation Act, and any Act or
3 joint resolution making supplemental, deficiency, or
4 continuing appropriations;

5 “(2) the term ‘legislative day’ means, with re-
6 spect to either House of Congress, any day of ses-
7 sion; and

8 “(3) the term “targeted tax benefit” means any
9 provision which has the practical effect of providing
10 a benefit in the form of a different treatment to a
11 particular taxpayer or a limited class of taxpayers,
12 whether or not such provision is limited by its terms
13 to a particular taxpayer or a class of taxpayers.
14 Such term does not include any benefit provided to
15 a class of taxpayers distinguished on the basis of
16 general demographic conditions such as income,
17 number of dependents, or marital status.”.

18 (b) EXERCISE OF RULEMAKING POWERS.—Section
19 904 of the Congressional Budget Act of 1974 (2 U.S.C.
20 621 note) is amended—

21 (1) in subsection (a), by striking “and 1017”
22 and inserting “1012, and 1017”; and

23 (2) in subsection (d), by striking “section
24 1017” and inserting “sections 1012 and 1017”.

25 (c) CONFORMING AMENDMENTS.—

12

1 (1) Section 1011 of the Congressional Budget
2 Act of 1974 (2 U.S.C. 682(5)) is amended by re-
3 pealing paragraphs (3) and (5) and by redesignating
4 paragraph (4) as paragraph (3).

5 (2) Section 1014 of such Act (2 U.S.C. 685) is
6 amended—

7 (A) in subsection (b)(1), by striking “or
8 the reservation”; and

9 (B) in subsection (e)(1), by striking “or a
10 reservation” and by striking “or each such res-
11 ervation”.

12 (3) Section 1015(a) of such Act (2 U.S.C. 686)
13 is amended by striking “is to establish a reserve or”,
14 by striking “the establishment of such a reserve or”,
15 and by striking “reserve or” each other place it ap-
16 pears.

17 (4) Section 1017 of such Act (2 U.S.C. 687) is
18 amended—

19 (A) in subsection (a), by striking “rescis-
20 sion bill introduced with respect to a special
21 message or”; ,

22 (B) in subsection (b)(1), by striking “re-
23 scission bill or”, by striking “bill or” the second
24 place it appears, by striking “rescission bill with

1 respect to the same special message or", and by
2 striking ", and the case may be,";

3 (C) in subsection (b)(2), by striking "bill
4 or" each place it appears;

5 (D) in subsection (c), by striking "rescis-
6 sion" each place it appears and by striking "bill
7 or" each place it appears;

8 (E) in subsection (d)(1), by striking "re-
9 scission bill or" and by striking ", and all
10 amendments thereto (in the case of a rescission
11 bill)";

12 (F) in subsection (d)(2)—

13 (i) by striking the first sentence;

14 (ii) by amending the second sentence
15 to read as follows: "Debate on any debat-
16 able motion or appeal in connection with
17 an impoundment resolution shall be limited
18 to 1 hour, to be equally divided between,
19 and controlled by, the mover and the man-
20 ager of the resolution, except that in the
21 event that the manager of the resolution is
22 in favor of any such motion or appeal, the
23 time in opposition thereto shall be con-
24 trolled by the minority leader or his des-
25 ignee.";

1 (iii) by striking the third sentence;
2 and

3 (iv) in the fourth sentence, by striking
4 "rescission bill or" and by striking
5 "amendment, debatable motion," and by
6 inserting "debatable motion";

7 (G) in paragraph (d)(3), by striking the
8 second and third sentences; and

9 (H) by striking paragraphs (4), (5), (6),
10 and (7) of paragraph (d).

11 (d) CLERICAL AMENDMENTS.—The item relating to
12 section 1012 in the table of sections for subpart B of title
13 X of the Congressional Budget and Impoundment Control
14 Act of 1974 is amended to read as follows:

"Sec. 1012. Expedited consideration of certain proposed rescissions and targeted tax benefits."

Passed the House of Representatives July 14, 1994.

Attest: DONNALD K. ANDERSON,
Clerk.

June 23, 1993

[From the Congressional Record pages H4957-4958]

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. MOAKLEY: Committee on Rules. H.R. 4600. A bill to amend the Congressional Budget and Impoundment Control Act of 1974 to provide for the expedited consideration of certain proposed rescissions of budget authority (Rept. 103-557, Pt. 1). Ordered to be printed.

[From the Congressional Record page D729]

EXPEDITED RESCISSIONS ACT

Committee on Rules: Ordered reported H.R. 4600, Expedited Rescissions Act of 1994.

June 28, 1994

[From the Congressional Record page D753]

EXPEDITED RESCISSIONS ACT

Committee on Rules: Granted a rule providing 1 hour of debate, on H.R. 4600, Expedited Rescissions Act of 1994. The rule makes in order only those amendments printed in the report to accompany the rule, to be considered in the order and manner specified in the report, with debate time also specified in the report. The amendments are not subject to amendment except as specified in the report, are considered as read, and are not subject to a demand for a division of the question. All points of order are waived against the amendments in the report. Finally, the rule provides one motion to recommit with or without instructions. Testimony was heard from Representatives Stenholm, Penny, Solomon, Dreier, Kasich, Quinn, Castle, and Blute.

July 14, 1994

[From the Congressional Record pages H5700-5730]

REQUEST TO MODIFY AMENDMENT NUMBERED 1 PRINTED IN HOUSE REPORT 103-565 TO H.R. 4600, EXPEDITED RE- SCISSIONS ACT OF 1994

Mr. SPRATT. Mr. Speaker, I ask unanimous consent to modify the amendment numbered 1 and printed in House Report 103-565. The modification is reduced to writing and available at the desk.

The SPEAKER pro tempore. The Clerk will report the modified amendment.

The Clerk read as follows:

Substitute Offered by Mr. SPRATT of South Carolina for Amendment Number 1 Printed In House Report 103-565: Page 10, line

17, insert “, unless the House has passed the text of the President’s bill transmitted with that special message and the Senate passes an amendment in the nature of a substitute reported by its Committee on Appropriations” before the period.

Page 11, line 21, insert “and by striking ‘1012 and 1013’ and inserting ‘1012, 1013, and 1014’” before the semicolon.

Page 12, line 1, strike “(2)” and insert “(1)”.

Page 13, line 7, insert “or One Hundred Fourth” before “Congress”.

Page 13, line 9, insert “or One Hundred Fifth” after “One Hundred Fourth”.

Page 13, line 15, strike “One Hundred Third” and insert “previous”.

Page 14, strike lines 7 through 11 and on line 12, strike “5” and insert “4”.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from South Carolina?

Mr. CLINGER. Mr. Speaker, reserving the right to object, I reserve the right to object to direct some questions to the author of the unanimous-consent request, specifically to inquire whether the bill pending before the committee this afternoon is identical to the bill which passed the House.

PARLIAMENTARY INQUIRY

Mr. SOLOMON. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. SOLOMON. Mr. Speaker, Members are confused about what is taking place. Is it not true that the rule on this bill has just passed and there is no vote pending and probably will not be for the next hour?

The SPEAKER pro tempore. The gentleman is correct.

Mr. SOLOMON. I thank the Chair.

Mr. CLINGER. Mr. Speaker, I have reserved the right to object to inquire of the proponent of the unanimous-consent request if the bill, that is, H.R. 4600 pending before the committee is identical to that which already passed the House, or which was considered and passed by the House last year. I would inquire of the proponent if that is correct.

Mr. SPRATT. Mr. Speaker, will the gentleman yield?

Mr. CLINGER. I yield to the gentleman from South Carolina.

Mr. SPRATT. Mr. Speaker, the bill that is being offered as the base bill is the bill that passed the House, I believe, on April 29, 1993.

Mr. CLINGER. Mr. Speaker, further reserving the right to object, I would like to then ask the gentleman from South Carolina if he had an opportunity to have this consent request considered when the Committee on Government Operations marked up this bill or if the Committee on Government Operations did consider this bill.

Mr. SPRATT. The committee itself did not report this bill. The gentleman is correct, it did not.

Mr. CLINGER. Further reserving the right to object, I would inquire if this amendment that is proposed now as a unanimous con-

sent request was propounded at the time the gentleman appeared before the Committee on Rules or did he present this before the Committee on Rules.

Mr. SPRATT. Part of it was, part of it was not. The upper part of the amendment which would have the bill amend page 10, line 17 was propounded and is made in order and will be offered as an amendment immediately after the bill itself is called in the Committee of the Whole. The balance of the amendment would in effect change the bill in one simple respect.

This bill in order to conform to the bill that the House passed in April 1993 is identical in all respects, but that means that it applies only to the 103d Congress. At that time, a lot of the 103d Congress was yet to be conducted. We would like to amend this bill by this amendment and by this language so that it would apply to the 103d Congress and the 104th Congress as well.

Mr. CLINGER. Mr. Speaker, given the fact that the committee of jurisdiction, that is, the Committee on Government Operations waived its jurisdiction over this bill, this bill has never been considered by the Committee on Government Operations, which is the committee of jurisdiction, and, therefore, this matter was not really given an opportunity to be discussed, debated or amended through the committee process. Because of that fact and the fact that the gentleman could have offered this request at various stages of this proceeding, I must object.

The SPEAKER pro tempore. Objection is heard.

EXPEDITED RESCISSIONS ACT OF 1994

The SPEAKER pro tempore. Pursuant to House Resolution 467 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 4600.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4600) to amend the Congressional Budget and Impoundment Control Act of 1974 to provide for the expedited consideration of certain proposed rescissions of budget authority, with Mr. DE LA GARZA in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from South Carolina [Mr. DERRICK] will be recognized for 15 minutes; the gentleman from New York [Mr. SOLOMON] will be recognized for 15 minutes; the gentleman from Michigan [Mr. CONYERS] will be recognized for 15 minutes; and the gentleman from Pennsylvania [Mr. CLINGER] will be recognized for 15 minutes.

The Chair recognizes the gentleman from Michigan [Mr. CONYERS].

Mr. CONYERS. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, today, the House considers H.R. 4600, legislation to provide expedited rescission authority for the President, a mat-

ter under the jurisdiction of the Committee on Government Operations.

The Government Operations Legislation Subcommittee has held numerous and wideranging hearings on budget reform issues. The committee has heard the testimony of the administration, the leadership and rank and file Members of both parties in Congress, as well as experts at the Congressional Budget Office, the General Accounting Office, and academia. Earlier, we received the testimony of our former colleague, Leon Panetta, who repeated President Clinton's call for the adoption of expedited rescission authority.

The Committee on Government Operations has worked diligently with the administration and committed Members of Congress to strengthen our budget process. I would particularly like to thank Congressman JOHN SPRATT, one of the Government Operations Subcommittee chairmen, for his work on these issues. Congressman SPRATT deserves great credit for his strong and continuing contribution in helping to forge consensus where, previously, there has been gridlock.

All of us are committed to eliminating wasteful and unproductive spending. The Committee on Government Operations has vigorously exercised its oversight function, holding a series of hearings to address fraud, waste, and other abuses throughout the Federal Government. Through these hearings, we have identified Government waste, ranging from massive contract overruns on the *Seawolf* submarine and C-17 airlifter contracts, to outright theft of Government funds at the United States Embassy in Mexico City.

Historically, one tool to cut wasteful Federal spending has been rescission authority. Since the adoption of the Impoundment Control Act of 1974, Congress has rescinded approximately \$90 billion in unnecessary budget authority, nearly 25 percent more than proposed by the President.

As attractive and successful as rescission authority has been, I want to clarify its limitations. Rescission authority is not a panacea or cure all for the Federal deficit. During our Government Operations hearing, the GAO testified that total enacted rescissions since 1974 have never exceeded 23 percent of any single year's deficit. However, to reduce the current deficit by 23 percent would require rescinding more than \$50 billion, the equivalent of rescinding the entire 1995 budget for the Departments of Education, Energy and Commerce. Clearly, rescission authority cannot solve the deficit problem on its own.

I am troubled by the potential for abuse and many of the concerns you have heard or will hear today reflect congressional concern fueled by administrative abuses of the 1970's. In fact, Congress adopted the Impoundment Control Act to address the misuse of an administration's impoundment authority to unilaterally and indefinitely cancel spending for selected programs. Consequently, this expedited rescission authority carefully provides for a trial run and the authority expires following the 103d Congress.

The legislation before the House is a good effort to create an additional deficit reduction tool for the President. The legislation provides the President with a certainty of a vote on the President's rescission proposals, guaranteeing an accelerated, expedited process through Congress. The bill would permit the President to submit

rescissions to Congress within 3 days of signing an appropriations bill and Congress must vote on these rescissions within 10 legislative days.

If the Appropriations Committee believes they can draft a better rescission package, they are free to report an alternative rescission proposal as well, provided it rescinds an equal or greater amount of money. If the President's rescissions are defeated, this alternative proposal is automatically brought before the House for a vote. This alternative makes sure Congress is not just debating whether to cut spending, but also, of equal importance, where to cut spending.

Additionally, nothing prohibits or impedes Congress from reporting additional rescissions under our constitutional power of the purse. This bill won't impede our authority to reconsider programs and rescind spending that fails to match with Federal priorities.

President Clinton's budget moves the country forward, addressing both the budget deficit and our national investment deficit, re-investing in critical spending priorities such as education and health. Earlier this week, our former colleague Leon Panetta announced the budget deficit is lower than previously forecast—President Clinton has reduced the budget deficit he inherited by \$85 billion for this year and \$135 billion for the next fiscal year, keeping his promise to cut the budget deficit in half when measured as a percentage of our Nation's economy.

While this administration has been aggressive, the President would benefit from additional, stronger deficit reduction tools to rein in unnecessary Federal spending. Consequently, I support H.R. 4600 and urge its adoption.

Mr. Chairman, I reserve the balance of my time.

Mr. DERRICK. Mr. Chairman, I yield myself 4 minutes.

I am delighted today to bring to the floor H.R. 4600, the Expedited Rescissions Act of 1994.

The legislation before us is a key aspect of the President's program: a modified line-item vote.

As did his predecessors, upon taking office President Clinton asked Congress to give him the ability to sort wasteful items out of appropriations bills and send those items back to Congress for separate votes. Last year the House passed an identical bill, H.R. 1578, to give him such power. That bill went over to the Senate, which has not acted as of today. The time has come to give this power to the President. Frankly, our hope is that if we pass another bill the Senators will get the message.

The legislation before the House is actually very simple. After the President signs an appropriations act he may, within 3 days, send the House a special message proposing to cancel spending items in the bill which he might oppose.

Within 2 days of receipt of the President's message, either the majority or minority leader would introduce the President's bill. If neither leader introduced it, then on the third day any Member could do so.

The bill would be referred to the Committee on Appropriations, which would have 7 legislative days to report it out.

The committee could not propose changes to the President's bill, but it could report an alternative bill if it chose. An alternative bill

would have to rescind at least as much as the President's bill, and draw its rescissions from the same appropriations act as the President.

The President's package would come to a vote in the House within 10 days of its introduction, and would not be subject to amendment. The House would have to vote, up or down, on the President's package as he submitted it.

If approved by a majority, the bill would go to the Senate which would consider it under similar, expedited procedures and constraints. If the legislation passed the Senate by majority vote, it would go to the President, who would presumably sign it into law since it was his proposal. Appropriations would be canceled and the deficit would fall.

If the House rejected the President's bill and instead passed the alternative bill, that bill would go to the Senate. The Senate Appropriations Committee could report the alternative bill with or without change, but for any alternative to be in order in the Senate, the Senate would first have to reject the President's bill. If both Houses ultimately passed an alternative to the President, then that bill would go to the President. If he signed it, those appropriations would be canceled and the deficit reduced. Either way, American taxpayers would be the big winners.

Mr. Chairman, H.R. 4600 would set up an historic experiment with a modified line-item veto. After the experiment, Congress would review the results and decide whether to extend the experiment or make it permanent with or without change.

If H.R. 4600 were the law, no longer could a President sign an appropriations act including wasteful line items, like grants to renovate Lawrence Welk's birthplace, or money to build schools for North Africans in France, and claim he was powerless to block them.

No longer could Congress force upon the President the dilemma of vetoing an entire appropriations act and shutting down the Government, or signing the whole thing, pork and all. Accountability is what we need, and accountability is what this bill will provide. This bill will strengthen accountability in the appropriations process without transferring vast power from Congress to the Presidency, and without advantaging the President's fiscal priorities over those of Congress.

I urge all Members to support the bill.

Mr. Chairman, I reserve the balance of my time.

Mr. SOLOMON. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the Expedited Rescissions Act of 1994 is identical to H.R. 1578, which passed this House last year. I opposed it at that time, and I oppose it today, because it is not a true line-item veto.

Mr. Chairman, anyone who thinks they can support this and get away with claiming they have voted for a line-item-veto bill had better have another thought coming.

The gentleman from Texas [Mr. STENHOLM], who helped originate this expedited-rescission approach, made it quite clear again in the Committee on Rules this year, just the other day, that this bill and his substitute for it are not a real line-item veto he said

he is opposed to the real thing because he thinks it give the President too much power.

Now, Mr. Chairman, I respect that point of view though I do not agree with it. I also respect the gentleman from Texas [Mr. STENHOLM], the gentleman from Minnesota [Mr. PENNY], and the gentleman from Ohio [Mr. KASICH], who are up front and honest about what this is and what this is not—and they have been. So we do not have any argument there.

H.R. 4600 provides that for the remainder of the 103d Congress the President would have some additional authority to cancel spending in appropriation bills, subject to the approval of both houses. It basically differs from the current rescission approach by accelerating the time frame for considering rescissions and forcing votes in both Houses on the President's proposals.

Well, what is wrong with this, you might ask? The answer is that H.R. 4600 suffers from many of the same problems as the current rescission process does, which does not work. First, a simple majority of either house could block the President's spending cuts and force the money to be spent simply by voting them down. So we are talking about the same majority that passed these pork-barrel projects in the first place being able to stop the President from terminating them. It's just the same old log-rolling methods they have used all long. Second, the bill, if enacted, would be subject to the rulemaking authority of the House and the Senate. That means that the rules could be changed at any time to provide for other procedures. So we really are doing nothing.

The Committee on Rules is going to do what it does every week waive the rules.

For instance, nothing in this bill would prevent the Committee on Rules from suspending the whole expedited process on a particular presidential rescission package, just as they have done before, and then schedule the appropriations alternative in its place.

Third, there is no penalty in H.R. 4600 for not acting. After the 20-legislative-day review period, the money will be released and spent if neither house has acted. That is the interpretation by our parliamentarian on last year's identical bill.

So, nothing has changed. The fact is, Mr. Chairman, that while the intentions in H.R. 4600 are good do expedite things and force votes on the President's cuts, there are no guarantees, especially for as long as this process is subject to the whims of the Democrat leadership and the Committee on Rules where I serve.

The Stenholm substitute, on the other hand—and I give credit to the gentleman from Texas [Mr. STENHOLM] because his approach is meaningful—the Stenholm substitute is a stronger expedited rescission approach in many respects. Instead of applying to this 103rd Congress only, he does give the President permanent rescission authority. And that is good. His substitute completely replaces the current rescission process. And that is good. He extends the process to targeted tax benefits. And that is good. He allows the President to designate rescissions for deficit reduction. So there are all positive things.

In short, it does correct—that is, the Stenholm substitute does correct—some of the criticisms leveled in last year's bill. I commend the gentleman from Texas [Mr. STENHOLM], for making these

improvements, but his approach is still subject to being circumvented by a special rule, which means his approach ultimately has no teeth. There still is no penalty if the Congress does not act. The money will be released after the review period.

So, here again we have no deficit reduction. Moreover, the Stenholm substitute contains one new provision which actually weakens its purpose. It allows for separate amendments on individual rescissions or tax break repeals if supported by 50 House Members or 15 Senators. Only 15 Senators. That means the package can be picked apart in both bodies in different ways, forcing a conference that is unlikely to resolve the differences before the 20 legislative days are up.

What it all boils down to, Mr. Chairman, is that there is no real substitute for a true legislative line-item veto that is subject to congressional disapproval rather than approval. All Members know that. We need to make it difficult to override the President by requiring the ultimate two-thirds' super majority to force the money to be spent. That is a true line-item veto. That is the only way we can begin to get a handle on some of this wasteful pork-barrel spending that is contributing to the sea of red ink engulfing us.

Mr. Chairman, I would urge my colleagues to send the strongest possible message today that we want something more than just an expedited rescissions process. Tell the President, tell the Senate, tell the American people that we are ready to lay down the line, we are ready to do what we go home and brag about, vote for a line-item veto. Vote for the Solomon amendment when it comes up, and then you will be doing the right thing for the American people.

Mr. Chairman, I reserve the balance of my time.

Mr. DERRICK. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from South Dakota [Mr. JOHNSON].

Mr. JOHNSON of South Dakota. Mr. Chairman, I rise in support of this legislation. There is no doubt about it that if we were to eliminate every ounce of pork-barrel spending in the Federal budget, it would go only a limited way toward eliminating the Federal budget deficit. We all understand that.

I think we all understand that and give a lot of credit to the Committee on Appropriations, the budget leaders in the House, on both sides, for the progress we have made in the past year in reducing the annual Federal deficit by 40 percent in the past 15 months by cutting the share of the deficit relative to the economy in half to the lowest point it has been since 1979. That is all to the good.

Nevertheless, there remain two reasons to pursue a line item rescission legislation. The rule we have here permits debate on the traditional line-item veto on two versions of the line-item rescission.

That is, one, where we can save a dime, obviously we need to save a dime. Second, we need to restore greater public confidence in the budget process to make sure that we do not in fact have items or expenditures that could not stand on their own merits.

And that is the key target for line-item rescission.

I do not support the traditional line-item veto, the two-thirds' vote requirement. Used as it is in the States around the country, it is not used to save money; more often than not it is used simply

to enforce the executive's legislative agenda. President Bush saying, "Support more foreign aid, or I will eliminate all the housing in your district," President Clinton presumably saying, "Support my health care plan, or I will eliminate all the water projects or whatever in your district." That is extortion, that is coercion, that is not the democratic process.

But everybody who supports a nickel's worth of expenditure in this body ought to be in a position to stand up and say, "Yes, I support that expenditure." There ought to be accountability, there ought to be a recorded rollcall vote on controversial spending items, and that is what the enhanced line item rescission legislation does in fact. So we restore public confidence to the process. In so doing, we also save some dollars, which contributes in a small way toward further progress on the Federal budget deficit reduction. That is what the public is demanding. They are demanding accountability within the context of our democratic—small "d"—process in the capital. This finally gives us an opportunity to send that kind of legislation to the other body and to again make that kind of progress. So I think that we need to pass in this body today—my preference is the Stenholm version—but in any event, one of the versions of line-item rescission.

Mr. SOLOMON. Mr. Chairman, I yield 2 minutes to the gentleman from Appleton, WI [Mr. ROTH] one of the hardest-working Members of this body, who represents the district in which is located the Green Bay Packers.

Mr. ROTH. I thank my friend from New York for yielding.

Mr. Chairman, I am very much in favor of the Michel-Solomon substitute amendment for this reason: 75 percent of the Americans support of the line-item veto in every poll that has been taken. In the mid-1980's, the last time we did a study on the line-item veto, the study showed that we could save as much as \$12 billion a year if the President had the line-item veto. When the people in America talk about change, this is the type of change they are talking about, giving the President the line-item veto.

I do not mean to be polemical in this debate on the floor here today, but I think it is important we take a look at the paper trail of some of the history of this legislation.

On November 19, 1992, long before Bill Clinton was sworn in, a number of people sent a letter to Bill Clinton, and it said, basically:

"We members of Congress are writing to offer our assistance on a matter on which we mutually agree, the need to give the President the line-item veto.

"We strongly support giving the President the line-item veto power which 43 Governors currently hold. This tool can eliminate billions of dollars of wasteful spending tucked away in appropriations bills and can help balance the budget. Giving the President the line-item veto will help bring fiscal responsibility to the federal budget.

"This is an issue of good fiscal policy and protecting the taxpayers. We support giving the line-item veto to both Republican and Democratic presidents, because we put fiscal responsibility above partisan politics.

"We urge you to make passage of the line-item veto part of your agenda for the first 100 days of your administration. We will work

with you for Congressional passage of the line-item veto. Signed by a large number of congressmen, mostly from our side of the aisle."

I think it is important for us, when we are having this debate, to go back and see that we, whether it is a Democrat President or a Republican President, want the President to have the line-item veto because with the line-item veto the President can do effectively what 43 governors are now doing, and we have to give the President this power so that we can bring about the change the American people are demanding.

Mr. DERRICK. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from Minnesota [Mr. SABO].

Mr. SABO. Mr. Chairman, I rise in opposition to the base bill, and the various substitutes, in my judgment, to varying degrees, and, if one should pass, and I expect the base will, which has passed before, and it will pass again. It clearly is preferable to have this experiment done on a limited time basis.

But what we have before us today are proposals that do not relate to spending. They relate to transfer of powers from the legislative branch to the executive, and I would argue, and it cannot be argued in a 30-second sound bite, that, if anything, that would increase spending rather than decrease spending because the reality is that, whether the President was Ronald Reagan, or whether the President was George Bush, or whether the President is Bill Clinton, in all three cases they wanted more discretionary spending than what the Congress has approved. In all three cases the Congress has modified their requests. They have changed them. But they have lowered them for all three administrations.

What do these proposals do in varying fashion? They increase the power of the Executive to subtly use their power to achieve their own agenda. It would have meant, I expect under Reagan and Bush, more difficult-to-moderate requests for such programs as star wars, or to modify aid to Nicaragua when that was a hot battle, or in the current administration I expect they would use that additional leverage for the President's investment program, much of which I agree with but which, I think, should be subject to the normal course of discussion, and deliberation, and compromise within the legislative branch.

The new power might be occasionally used, and so someone could say occasionally it saved some money, but the power would be unused most times. But maybe this is a persuasive tool to get some Members of this Congress to vote with the President, on their agenda, which in all three cases has involved more discretionary spending than what the Congress has approved.

The other thing which concerns me as we deal with this proposal is the degree that we seem to have lack of self-respect for ourselves as elected Members. We structure programs in a variety of ways. We structure some as formula programs where we appropriate so much money, and it flows by formula to the States or to other units of governments. Sometimes those formulas are done well, sometimes poorly, and impacted by the politics and the geography of this institution and the President. However I find that administrations, whether they be Republican or Democrat, like to have programs where the money is spent at the discretion of the executive branch, and many times that makes sense. Occasionally we des-

ignite it in Congress. But administrations like to have programs with flexibility so they can announce where the money is flowing.

Who are those programs run by? People appointed by the President, confirmed by the Senate, often our former colleagues. We have had three that served as Cabinet members in this current administration. Virtually half of the Bush Cabinet was former House Members. We somehow have this perception that when they were in the House, elected by their constituencies, they lacked judgment individually and collectively. But when they were nominated by the President, confirmed by the Senate, suddenly they become saintly and wise.

Well all of these people that have been appointed I think have been good Members from both parties, but their judgment, their wisdom, really did not change. They had different and newer responsibilities, answerable to the President rather than their constituents in dealing with the collective judgment of the Congress. But they did not become different. We do not make perfect judgments here, but neither does the Executive.

So, Mr. Chairman, I would ask the Members to vote no on these proposals for a variety of reasons, but most fundamentally it will cost money, not save money.

Mr. SOLOMON. Mr. Chairman, I would say to the gentleman from Minnesota [Mr. SABO] maybe we need a President like GERRY SOLOMON that will offer a balanced budget, get a vote on it, and then go down in defeat, but nevertheless we tried.

Mr. Chairman, I yield 1 minute to the gentleman from Roanoke, VA [Mr. GOODLATTE].

Mr. GOODLATTE. Mr. Chairman, the American people overwhelmingly want to give the President of the United States a real line-item veto. They have good reason to do so. They expect our Government to be run in a businesslike fashion, but what chief executive of any business in this country could operate when presented with expenditures sometimes in the hundreds of billions of dollars in these appropriations packages, and they have to take the entire package or leave the entire package?

I am not going to agree with every line-item veto that President Clinton will impose, but I do think that he should have the same power that 43 State Governors have, and I think it is important that we have this mechanism to break up the way this Congress does business. It will be a lot less likely that we will have pork-barrel legislation, that we will have log rolling, if we do not know which Member's package is going to be vetoed by the President. I think it is a lot less likely we are going to vote for these enormous packages if we have a situation where the President has an opportunity to veto and we do not know whose particular item he is going to pick out to veto.

So, I would urge the Members to vote for the Michel-Solomon amendment. It is the only amendment that is a real line-item veto.

Mr. DERRICK. Mr. Chairman, I yield 1 minute to the gentleman from Arizona [Mr. COPPERSMITH].

Mr. COPPERSMITH. Mr. Chairman, again this year, I rise in strong support of the line-item veto, a tool to discipline the Federal budget.

Last April, the House also considered three different proposals for a line-item veto, adopting one. Unfortunately, the other body has failed to act. I hope today's vote will help stir its members to adopt this powerful budget-cutting tool.

By allowing the President to strike individual spending and tax expenditure items, the line-item veto can cut wasteful pork barrel projects or special interest tax breaks. It will illuminate our budget priorities, helping us to select from those programs that are merely good, those that are good enough.

Today, we will debate the various forms of line-item veto, and others will speak to their merits and demerits. Whichever alternative carries today, however, I think a majority will agree that we need the line-item veto.

Even the base bill, which I hope we will strengthen and which I will vote to strengthen, will shine the spotlight of publicity on irresponsible Federal spending; as Louis Brandeis once said, "Sunlight is the best of disinfectants." By helping to expose and eliminate wasteful spending or tax benefits, any line-item veto represents a great improvement over what we have now.

Mr. SOLOMON. Mr. Chairman, I yield 2 minutes to the gentleman from Tennessee [Mr. DUNCAN], and, Mr. Chairman, the previous speaker voted for the true line-item veto the last time, and we appreciate his support this time, but this gentleman came here in 1989, and he has been a leader on line-item veto ever since he succeeded his father.

Mr. DUNCAN. Mr. Chairman, I rise in strong support of the Michel-Solomon substitute, and I thank the gentleman from New York for yielding and for his outstanding leadership on this very important issue.

The last time we dealt with this issue, the Wall Street Journal ran a lead editorial entitled "Voodoo Line Item Veto," describing basically the committee bill we have today.

The American people, Mr. Chairman, do not want voodoo; they do not want a watered-down version. They want real reform, they want a real line item veto, and that is what the Michel-Solomon substitute is.

The American people, Mr. Chairman, are angry. They are angry because government at all levels is taking almost half of the average person's income in taxes of all types. But they are especially angry because they feel that so much of their hard-earned tax money is being wasted. They do not feel they are getting their money's worth, and, unfortunately, too often they are right. They want us to stop the hemorrhaging. They wanted us to balance the budget and start paying off some of our horrendous national debt. They do not want us to mortgage the future of our children. They want us to do more than just pay lip service to bringing spending under control.

Mr. Chairman, in this week's Christian Science Monitor, former Senator Paul Tsongas, and Jonathan Karl, a reporter for the New York Post, said this.

"If you think sending a chunk of your hard-earned income to the Internal Revenue Service was tough this year, imagine the responses of future taxpayers who will face average lifetime tax rates of an incredible 82 percent.

"Confronted with the burdens of a monstrous national debt, an aging population, and runaway Federal entitlement programs, tomorrow's Americans will be turned into a generation of indentured servants. They won't stand for it. Without action today, we are likely to see generational political wars by the end of the decade."

Those are the words of a former Democratic Senator, Paul Tsongas, and this reporter from the New York Post, Jonathan Karl. The people of this country are demanding action. They want real reform. They want what the Governors of 43 States have. Every poll, every single survey, shows 75 to 80 percent of the people want us to pass a line item veto.

Mr. Chairman I urge support for the Michel-Solomon substitute.

Mr. DERRICK. Mr. Chairman, I yield 1 minute to the gentleman from Texas [Mr. STENHOLM].

Mr. SPRATT. Mr. Chairman, I yield 1½ minutes to the gentleman from Texas [Mr. STENHOLM].

The Chairman pro tempore (Mr. DE LA GARZA). The gentleman from Texas [Mr. STENHOLM] is recognized for 2½ minutes.

Mr. STENHOLM. Mr. Chairman, I am pleased to come to the floor today to debate proposals to strengthen the ability of Presidents to identify and eliminate low-priority budget items. The Members of the House will have the opportunity to consider three different proposals on this issue, including a substitute which I will be offering along with TIM PENNY and JOHN KASICH. This substitute strikes a balance which grants the President the authority to force votes on individual tax and spending items without disrupting the constitutional balance of power.

Expedited rescission legislation embodies an idea which many Members, both Democrats and Republicans, have fought hard for. Dan Quayle first introduced expedited recession legislation in 1985. Tom Carper and DICK ARMEY did yeomen's work in pushing this legislation. On the Democratic side, TIM JOHNSON, DAN GLICKMAN, TIM PENNY, and L.F. PAYNE have spent the past several years as particularly effective advocates of this legislation. Numerous Republicans, including Lynn Martin, Bill Frenzel, GERALD SOLOMON, HARRIS FAWELL, and others have made meaningful contributions to expedited rescission legislation as it has developed. Thanks to the efforts of these and other members, the House overwhelming passed expedited rescission legislation in the 102d Congress. Last April, JOHN SPRATT and BUTLER DERRICK worked diligently to help pass legislation virtually identical to the base bill before us today.

We need to bring greater accountability to the appropriations process so that individual appropriations may be considered on their individual merits. The current rescission process does not make the President or Congress accountable. Congress can ignore the President's rescissions, and the President can blame Congress for ignoring his rescissions. I believe that it is appropriate to strengthen the President's ability to force votes on individual budgetary items.

The current discharge process for forcing a floor vote on the President's rescissions is cumbersome and has never been used. The President is required to spend the money if Congress has not enacted the rescissions within 45 days. In other words, Congress

can reject the spending cuts proposed by the President through inaction.

According to data compiled by the General Accounting Office, Congress has approved barely one-third of the individual rescissions submitted by Presidents of both parties since 1974. Congress has ignored \$48 billion in rescissions submitted by Presidents under the existing process without any vote at all on the merits of the rescissions.

My colleagues on the Appropriations Committee correctly point out that Congress has passed more than \$60 billion in rescissions of its own since 1974, but I do not believe that the fact that Congress has approved more spending cuts than the President has submitted is a justification for not voting on the President's rescission proposals. The public is fed up with the finger-pointing in which each side argues that the problem is really the other side's fault. Constituents do not consider doing better than the other side to be a substitute for actually dealing with a problem. When we are faced with deficits in the \$200 billion range, we cannot afford to ignore any proposals to cut spending.

Forcing votes on individual items in tax and spending bills will have a very real cleansing effect on the legislative process and will take a step toward reducing the public cynicism about the political process. I urge my colleagues to strengthen the rescission process by voting for the Stenholm-Penny-Kasich amendment.

Mr. SOLOMON. Mr. Chairman, I yield 2 minutes to the gentleman from San Diego, CA [Mr. CUNNINGHAM], a very distinguished member of the Committee on Armed Services, but one who contributes on many issues on this floor.

Mr. CUNNINGHAM. Mr. Chairman, the President and the line-item veto. There is not a bill that would go through this House that if any of us were President, that we would not veto some of those items in those bills. Every single bill. And I have heard colleagues on both sides of the aisle say, "I would really like to support this bill, but it has got a bunch of pork in it," or it has got this or that.

I think the President needs that same responsibility, and I agree to do that.

I have heard that, yes, we are elected as Members of this House, and we work either for or with, however you want to define it, the President. But the President does not always agree with the basics of this House or the other body as well.

By having a line-item veto, it would be difficult at times for the President to make those hard decisions. Why? Because he is responsible to the American public for each of those items that he vetoes. He may not want that responsibility, but the American people want it. And I know if it was president, which will never come, but I would want that power.

Fact: The majority is not going to do anything that takes away power from the majority. The line-item veto, the discharge petition, a balanced budget amendment, are ways to take that power away from this House. And that is why they are fighting this line-item veto, a true line-item veto, so much.

A good case in point: We thank the gentleman from Oklahoma [Mr. INHOFE] for filing a discharge petition. It is driving the majority nuts. Why? Because the Committee on Rules, made up of nine

Members from the majority of four Members from the minority, controls every single piece of legislation that comes to this floor; not only controls what legislation, if any, but they control the content with restrictive controls on it to determine its outcome. A discharge petition changes all of that, and they do not like that.

A line-item veto would do the same thing.

Mr. DERRICK. Mr. Chairman, I yield 30 seconds to the gentleman from Wisconsin [Mr. BARCA].

Mr. BARCA of Wisconsin. Mr. Chairman, the President needs desperately the authority that is contained in the bills that we are taking up today. When he is presented with an appropriation bill with billions of dollars of spending and thousands of discrete items, a President is left virtually powerless and almost without any options when it comes time for a veto. Hopefully we will pass a meaningful and strong bill today. We need to send the message to the Senate that this is a bill that must be taken up this session.

Mr. SOLOMON. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, let me just say to the body that I know we are all sincere in what we are trying to do here. But the truth of the matter is, there is only going to be one vote on this floor which is going to deal with a true line-item veto, and that is the Solomon substitute.

Mr. Chairman, we can talk about which President did this and which President did not do that. The American people do not really care about all that. The American people do care about this \$4.5 trillion debt that is ruining our country. It is turning us for the first time into a debtor nation.

We come up with a new budget gimmick every year. Some Members brag, well, the deficit is only \$165 billion this year, or it was only \$190 billion last year. We reduced it by this tremendous amount, so they say.

The truth of the matter is, we have not done anything. I am not trying to be critical of this body or to disparage it in any way. The truth of the matter is, we just do not deal with the deficit. I do not think we are going to until we put legislation in place that is going to allow us to deal with it. That means true line-item veto. President Clinton has said he wanted it. President Bush and President Reagan and President Carter all wanted the line-item veto and they all deserved it, just like the 43 Governors of this great country of ours who have it. They have never abused it, not in any case that I have ever heard of. Even Governor Cuomo in my State has never abused it.

That is why we ought to pass it at the Federal level. We ought to put it on the books and then we can hold the President or this Congress responsible. As it stands now, we just do on and on and on. The debt goes up and up and up, and nothing is ever done about it.

Mr. Chairman, when the votes do take place, the first vote is going to be on the true line-item veto in the Solomon amendment. Please vote "yes" on that. If that passes, the gentleman from Texas [Mr. STENHOLM] has said he would not even pursue his amendment. That means that the final bill would then have a true line-item veto.

Vote "yes" on the Solomon amendment in about 45 minutes when it comes up for a vote.

Mr. Chairman, I yield back the balance of my time.

Mr. DERRICK. Mr. Chairman, I yield myself the balance of my time.

The modified line-item veto is a good idea. I am going to support it. I supported it last time.

But, let us not try to fool ourselves or the American people. Over the years people in public office have sought many, many gimmicks to avoid having to make the hard decisions themselves. I have heard a number of members refer to the fact that 43 Governors have some form of line-item veto.

They should go one step further and tell Members that very, very seldom, do Governors use it to cut spending. They use it more than anything else to get their pet projects through and ultimately to increase spending.

I agree, it is unfair to ask a President either to veto or sign a multi-billion dollar appropriations bill and not have an opportunity to line-out some of the items in there. I am going to vote for a way to let them do this. But let us not think that the Presidents, whether it be President Reagan, or President Solomon, or President Bush, or President Clinton, are going to use this to cut the deficit. It is just not going to happen.

The CHAIRMAN. Pursuant to the rule, the gentleman from South Carolina [Mr. SPRATT] will be recognized for 15 minutes, and the gentleman from Pennsylvania [Mr. CLINGER] will be recognized for 15 minutes.

The Chair recognizes the gentleman from South Carolina [Mr. SPRATT].

Mr. SPRATT. Mr. Chairman, I yield myself 4½ minutes.

Mr. Chairman, I rise in support of the expedited rescission bill, H.R. 4600. This bill passed the House last year by a vote of 258 to 157 and comes to the floor today as the first in a series of budget process reforms that the House will be taking up.

Let me review briefly the mechanics of this bill, because I think it is important to emphasize them, particularly when they are called voodoo by some of the opponents.

After the President signs an appropriation bill under this particular procedure allowed by H.R. 4600, the President would have 3 days to send Congress a message proposing to rescind any budget authority that is included in the bill. Before the close of the second legislative day, after the President's message has been received, the majority leader and the minority leader would have to introduce by request this bill. If they fail to do that, any Member on the third day could do so. Once the President's rescission bill was introduced, it would then be automatically referred to the Committee on Appropriations and they would have 7 days on which to act upon it and report it out without substantive revision.

The House would then have to vote on the President's package within 10 days of the date it was introduced in the House of Representatives. It would then be sent to the Senate, and they would consider the package under the same series of expedited procedures, acting within 10 days.

Pending the resolution of this bill, as long as it is still in play, the money proposed for rescission by the President could not be obligated by either House or could not be obligated until one of the Houses had defeated the bill and taken the issue out of play.

This is a carefully, very, very precisely crafted bill. And yet we hear today that it could all be undone, all of these procedures where there are guarantees at every turn could be undone and what we could do today could be undone tomorrow just by adopting a rule. That may be a parliamentary possibility. I do not even want to debate it because it is too farfetched. I do not think it would even come to pass as a political possibility.

First of all, the leadership of this House would have to go to the Committee on Rules and, having set up this institutional procedure, this structure, proffered this series of steps to the President for rescinding spending, would have to retract it, would have to pull the rug out from under the President of the United States and say, "What we offered you in the form of legislation and put in statute last year we are undoing by this rule today."

I do not think the leadership is likely to do that. Even if the leadership tried and even if the Committee on Rules went along, the Members of this House would have to pass such an extraordinary rule, and I do not think it would be passed here in the House of Representatives for several reasons.

One is the very basic nature of this bill. The purpose of this bill is to shine a spotlight, to concentrate attention, to focus upon specific elements of bills that sometimes frequently get lost in the fray as they are pushed through this place, to bring them back here in the well of the House with the public looking, the media looking, with the President concentrating his focus upon them to make Members stand up and be accounted for on specific items. I do not think in that context many Members would want to vote against a rule because everybody would immediately translate that to the general public.

They would know that a rule like that that undercut this procedure was a rule for pork-barrel spending, for unwarranted, wasteful spending I do not think we would be able to muster a majority to do it, even if it were proposed.

There is another reason on this bill, because there is a good reason to believe, good reason to construe this language to mean that as long as the President's proposal for rescission is still pending and has not been acted upon, voted upon in this House, as long as it is still pending and still in play then the rescission is still effective. It suspends the obligational authority of the executive branch.

I do not think it is likely to happen for all those reasons. I think this is a good law and, when it goes on the books, it will be an effective procedure that will assure accountability and will give a way to guarantee the President the authority to sort through and cull out unwarranted, wasteful, parochial spending and send it back to us and make us be accountable for it.

Let me tell Members something that is likely to happen if by some unlikely means the statutory line-item veto were to pass. It will be challenged in court because it is of doubtful constitutional validity. I guarantee Members, it will be suspended and joined until the courts have upheld it. We could go 2 to 3 years and get

what I think is an inevitable decision of the Supreme Court, which is that it is unconstitutional. Then what will we have. Two years with no line-item rescission authority and an opportunity to start all over again. That is why the effective, efficacious thing to do is to pass this bill, if we can pass it again, send it to the Senate, tell them we are serious, underscore it, emphasize it and adopt it as part of this year's budget reform.

Mr. Chairman, I rise in support of the expedited rescission bill, H.R. 4600. This bill passed the House last year by a vote of 258 to 157. It comes to the floor today as the first in a series of budget process reforms that the House will consider. Next week, the House is to vote on H.R. 4604, the entitlement review bill. And before we adjourn in August, the House is to devote another day to consideration of other entitlement reforms and budget process reforms.

The President, of course, can propose today that any item or part of an appropriation bill be rescinded. He has that authority under section 1012 of the Budget Act of 1974, but he has no assurance that Congress will act on what he proposes. H.R. 4600 gives the President that assurance. It requires Congress, on an expedited basis, to vote on the President's proposal. It also gives the Appropriations Committee the right to offer an alternative rescission package, which the House can consider if the President's package is voted down.

This bill makes it easier to cull out spending projects that are opposed by the President and by majorities in the House and Senate. Under this bill, the only way budget authority can be rescinded is if the President proposed the rescission and majorities in both the House and Senate approve the President's request. If the President opposes a particular project and majorities in both Houses agree with him, the spending should be eliminated. Congress has been subject to public ridicule when individual Members add projects to spending bills which few Members know of and few would support. H.R. 4600 gives us the chance to kill those programs.

Before discussing details of the bill, I would like to take up two concerns that have been raised about this bill. First, some question why we need to bring up a bill that the House has already passed. There are several good reasons:

First, passage of this bill will be an impetus to the other body to do the same. If we pass this bill again, we can underscore its importance to us, and send the other body a blunt message: the House wants to reform the budget process and we want to act this year.

Second, H.R. 4600 is a baseline bill. By bringing it up, we open the opportunity to consider alternatives. We will take up, for example, the Stenholm-Penny-Kasich substitute, which was not before the House in the last debate. Stenholm-Penny-Kasich would allow the President to rescind targeted tax benefits as well as appropriated items. This substitute would also allow 50 Members the right to break out individual items in a rescission proposal and have separate votes on separate items. In addition, the substitute would make expedited rescission permanent law. H.R. 4600 expires at the end of the 103d Congress, because it is offered as a trial procedure. I will ask unanimous consent to amend it and extend it to the 104th Congress.

We will also be giving the House another opportunity to consider the Solomon substitute, which grants the President a traditional type of veto, but by statute rather than by constitutional amendment. It begs, of course, the important question of whether we can grant such a veto without amending the Constitution. I believe that we cannot.

Let me review briefly the mechanics of H.R. 4600. After the President signs an appropriations bill into law, under this bill, he will have 3 days to send Congress a message proposing to rescind any budget authority included in that bill. Before the close of the second legislative day after receiving the President's message, the majority or minority leader of the House shall introduce the draft bill. If neither decides to introduce the package, then on the third legislative day, any Member may introduce it. Once the President's rescission bill is introduced in the House, it is sent to the House Appropriations Committee which has 7 days to report the bill without substantive revision. The House must vote on the President's package within 10 days of the date the proposal is introduced in the House. The package is then sent to the Senate which will consider the package under the same expedited procedure. The money proposed for rescission cannot be obligated until either the House or Senate defeats the bill.

To deal with concerns that appropriators raised last year, the bill gives the Appropriations Committee the power to report an alternative rescission bill. But any alternative rescission bill reported by the Appropriations Committee could only be considered by the House immediately after voting on the President's unamended proposal. Basically, what this bill does is to guarantee the President a fast track for a clear up-or-down vote on his own proposal.

Because this bill is straightforward, it is clearly constitutional, and CRS has written a memorandum passing judgment on it, which concludes that it complies with the Constitution. Nevertheless, for any who may have doubts, we have language in the bill borrowed from Gramm-Rudman-Hollings which provides for an expedited judicial review of the constitutionality of the bill.

Mr. Chairman, I make no extravagant claims for this bill, but I do believe that it adds an important step to the budget process. I believe that it will add also to public accountability. And I believe that if it is passed, it will become a significant restraint on spending. I urge the House to support H.R. 4600.

Mr. Chairman, I reserve the balance of my time.

Mr. CLINGER. Mr. Chairman, I yield myself 2½ minutes.

Mr. Chairman, I rise in opposition to H.R. 4600. Let me begin by explaining what H.R. 4600 is not.

H.R. 4600 is not the A-to-Z spending cut proposal. It never has been and it never will be. Nor is H.R. 4600 adequate political cover for Members who vote "yea" on this bill to then turn their backs on the A-to-Z proposal. The American people are not fools and will surely recognize this effort as a pale imitation of real deficit reduction. Members cannot prove their man or womanhood on deficit reduction by voting in favor of this bill, which is going nowhere, and rejecting the A-to-Z spending cut plan, which could result in significantly less Federal spending.

Finally, H.R. 4600 is not a serious effort to reform the Federal budget process and reduce the deficit. On April 29, 1993, we all stood on this floor debating H.R. 1578, also introduced by my honorable friend, JOHN SPRATT, and also called the Expedited Rescission Act. In fact, H.R. 1578 was the same exact bill as the one before the House today. It was approved by a vote of 258 to 157, yet it has gone nowhere for the same exact reason that H.R. 4600 will go nowhere if it is approved today. Namely, it was not meant to go anywhere. Our colleagues in the other body have had well over a year to act on enhanced rescission authority. Yet, they have turned a deaf ear.

What H.R. 4600 is, is disappointing. The bill is called expedited rescission because like many things in Washington, it asks those of us who are concerned about reducing the deficit to simply hurry up and wait. So, I rise today, along with many of my colleagues, in opposition to the Expedited Rescissions Act of 1994 and I do so for the same reasons I opposed the Expedited Rescissions Act of 1993 and perhaps may be obliged to oppose the Expedited Rescissions Act of 1995 and 1996.

I oppose this measure with great reluctance, however, because in the past, and indeed in the present, I have admired and supported budget process proposals from the gentleman from South Carolina. But in this case, there are a lot of very significant things at stake here and I am not willing to jeopardize those for the sake of political cover. We risk, with the vote we cast today, losing an opportunity to get a real tool to do something about a deficit which is still eating us alive.

As I did last year, I am opposing this bill for two major reasons. One is based on procedural grounds and the other is based on the fundamental weaknesses associated with the bill.

First, I oppose this proposal due to the expedited means by which it was brought to the floor. Unfortunately, the Government Operations Committee has all too frequently waived its jurisdiction over budget process issues, as we did in this instance. Although we have held hearings on budget reform proposals, the Government Operations Committee time and time again refuses to mark up budget reform legislation. That practice, coupled with efforts to restrict the ability of Republican Members to offer amendments on the House floor, is a slap in the face of minority rights.

Because H.R. 1600 is identical to the bill we passed through this body a year ago, it has identical flaws. I have already mentioned that this bill is simply designed to give Members on the other side of the aisle political cover to argue that they voted to speed up the rescission process and appear through smoke and mirrors as though they are supporting the line-item veto. That contention is simply not true. If this bill had been considered in the committee of appropriate jurisdiction, Government Operations, I am confident that it would have been improved to provide the President with a true line-item veto.

Mr. Chairman, I am including in the record a copy of a letter sent to Chairman CONYERS, and signed by each Republican on the Government Operations Committee, protesting the waiver of our committee's jurisdiction on this bill. This letter supports my belief

that had we had the opportunity to amend this bill in committee, the House would pass today a strong anti-deficit measure.

Second, I oppose this bill because by making the President, the House and the Senate all approve rescission legislation before any cuts are made, this bill gives Congress dictatorial power to block attempts to reduce porkbarrel, special-interest spending. If my colleagues on the other side of the aisle trust the President, elected from their own political party, they would truly trust him with unfettered authority to cut wasteful spending. If Congress wants some of the useless spending items included in nearly every appropriation bill, let them come here to the floor and defend them individually.

Finally, as compared to a true line-item veto, this bill gives the President weak authority to make rescissions. Under this proposal, the President's rescissions will not take effect until Congress takes affirmative action to approve them. In effect, this allows Congress to veto the President's rescissions by doing nothing at all.

It was President Clinton who stated during the Presidential campaign that he wanted a true line-item veto. Let us end gridlock and give him what he wants! Vote "no" on H.R. 4600.

The letter referred to is as follows:

HOUSE OF REPRESENTATIVES,
COMMITTEE ON GOVERNMENT OPERATIONS,
Washington, DC, June 22, 1994.

Hon. JOHN CONYERS,
*Chairman, Committee on Government Operations, Rayburn House
Office Building, Washington, DC.*

DEAR MR. CHAIRMAN: We are writing to express our strong objection to your recent waiver of Government Operations Committee jurisdiction over H.R. 4600 and H.R. 4604, the expedited rescissions and entitlement spending reform proposals now pending in the House. Although these matters are central to Government Operations' budget process authority and could, if responsibly crafted, offer much-needed opportunities for federal deficit reduction, for the second time in two years our Members have been denied the opportunity to act on both expedited rescissions and entitlement review.

Last April, Government Operations discharged without consideration H.R. 1578, Congressman Spratt's rescission bill. That legislation, which is identical to H.R. 4600, has since been languishing before the Senate Budget and Governmental Affairs Committees with no action scheduled. Similarly, the Spratt entitlement review proposal contained in H.R. 4604 is identical to language discharged from Government Operations and self-executed into the 1993 House Reconciliation bill. That language was later dropped in conference. Clearly, the Senate has recognized the flaws in both proposals, and yet this committee continues to deny our Members the chance to improve them.

Your latest decision to discharge is particularly disturbing in light of your earlier commitment to ensure Government Operations Committee consideration of H.R. 3801's budget process reforms, which include the very entitlement reforms just waived. The members of this committee were promised the chance to work their will

in strengthening the federal budget process and improving federal deficit control. That commitment has now gone by the wayside. We urge you to restore your promise by reasserting this committee's jurisdiction and protecting our members' right to consideration of true budget process reform. As we have repeatedly noted, for Government Operations to maintain its jurisdiction, it must exert its jurisdiction. Now is the time to do so.

Sincerely,

Rob Portman, Stephen Horn, Deborah Pryce, Craig Thomas, Steve Schiff, J. Dennis Hastert, Jon Kyl, Dick Zimmer, William F. Clinger, Al McCandless, Christopher Cox, William Zeff, Frank Lucas, John Mica, Christopher Shays, John McHugh.

Mr. Chairman, I reserve the balance of my time.

Mr. SPRATT. Mr. Chairman, I yield 2 minutes to the gentleman from New Jersey [Mr. KLEIN].

Mr. KLEIN. Mr. Chairman, I rise today in support of the Expedited Rescissions Act and the Stenholm substitute.

Mr. Chairman, I voted for H.R. 1578 last year, but unfortunately the Senate has not acted on it. Nevertheless, the time has come for Congress to make the hard choices needed to substantially reduce the deficit. Because the deficit problem is so compelling, we must give the President additional powers to cut spending and we must make Congress accountable to these cuts.

For far too long, Congress has been able to avoid making the difficult decisions regarding spending cuts that the President has proposed by hiding behind current law which does not require a vote on rescissions. This bill will ensure that Congress makes these decisions. Most importantly, it will also give the President the power to cut wasteful and unnecessary items out of appropriations bills to cut the pork out of the budget.

Congress should be forced to go on the record and register its views on the President's proposed cuts. We have already gone a long way toward real deficit reduction and fiscal sanity. We have made progress, but we can and must do more. This bill will provide the tools to make a giant leap forward.

I have urged that we have an early vote on the lock box bill so that rescission cuts will go to deficit reduction and I understand that we will soon have that opportunity. In the meantime, we can give the President that option now by supporting the Stenholm substitute which includes such a provision. These two measures are critical to achieving further deficit reduction and I will continue to fight hard to have them become law.

My friends, it is time to pay the piper. I urge my colleagues to support the Expedited Rescissions Act and require real congressional accountability. Let us show the American people that we can and will make the tough choices in the deficit reduction process.

Mr. CLINGER. Mr. Chairman, I am pleased to yield 4 minutes to the gentleman from California [Mr. MCCANDLESS], the ranking member on the Subcommittee on Legislation and National Security of the Committee on Government Operations, and a very active member of that committee.

Mr. MCCANDLESS. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, for the second time this Congress, I rise in strong opposition to this bill, and I urge my colleagues to finally, once and for all, do what is right. I urge you to vote against both H.R. 4600 and the Stenholm-Penny-Kasich substitute, and to vote instead for a chance at real deficit reduction. Join me in support of the Michel-Solomon amendment to give our President a true line-item veto.

Mr. Chairman, H.R. 4600, the Spratt expedited rescission bill, is fatally flawed.

H.R. 4600, applies only to this year's appropriations bills. It has no effect on next year's appropriations or on those of any subsequent year.

The legislation permits any rescission to be unilaterally killed by a simple majority of either House of Congress.

It permits the Rules Committee to waive any or every provision in the bill and thereby prevent consideration of any rescission package at all.

And finally, as if that were not enough, this exact same bill has been languishing in the Senate for over a year, and has no chance whatsoever of ever becoming law.

Given the enormity of its defects, I doubt any Member can be fooled by how little cover this transparent fig leaf of reform really provides.

Similar problems exist in the Stenholm-Penny-Kasich substitute. Although their proposal extends beyond this Congress and provides the President with rescission authority over targeted tax preferences, the Stenholm substitute still permits either House to unilaterally kill any rescission, and it still allows the Rules Committee to waive any and all provisions of the bill. Neither Members nor taxpayers looking for true deficit reduction will be succored by this weak plan.

Of the three proposals pending before the House, only the Michel-Solomon approach ensures real reform and accountability by both Congress and the President. The Michel-Solomon amendment forces Members to vote on rescission proposals and guarantees that rescissions will take effect unless a majority of both Houses vote to override them. In addition, Michel-Solomon will permit the President to take aim at the special tax benefits afforded a few privileged corporations and special friends.

Under Michel-Solomon, the President will no longer be able to blame Congress for forcing him to choose between wasteful spending or shutting down the Government. The President will be able to make reasonable rescission recommendations which must be voted on by both Houses of Congress. Congress, in turn, will be required to vote on questionable spending items which are buried in massive appropriations bills. In addition, we will be able to cancel unfair tax breaks for targeted special interests.

The Michel/Solomon amendment will allow both the President and Congress to more effectively do their jobs, and the American people will undoubtedly benefit.

Mr. Chairman, the U.S. Government is currently \$4.6 trillion in debt. If left unchanged, that debt will mount to more than \$7 trillion in just another 10 years, and on it goes. Clearly, we must change the way we do business, and that change must be real and substantive. The Michel-Solomon amendment provides that type of

change and offers a honest opportunity for deficit reduction. I, for one, would hate to go home having voted for less. I urge my colleagues to do the right thing and support the Michel-Solomon plan.

Mr. SPRATT. Mr. Chairman, I yield 2 minutes to the gentlewoman from California [Ms. HARMAN].

Ms. HARMAN. Mr. Chairman, I rise in support of this legislation and the Stenholm-Penny-Kasich substitute. I do so because I believe the line-item veto is a proven and effective procedure to curtail wasteful spending. It is not a gimmick. Rather, it is a serious means to restore fiscal responsibility to the spending process, and is employed by virtually all States, including my State of California.

Currently, Mr. Chairman, House procedures allow two main vehicles for pork: Tax bills and appropriations. Once inserted into an omnibus tax bill, inappropriate tax breaks, and subsidies are impossible to remove without defeating the bill.

Second, even when the House votes to terminate a wasteful project from an appropriation bill, the intended savings may be respent by appropriators on other pet projects.

The Stenholm-Penny-Kasich substitute amendment not only provides for a Presidential line-item veto of appropriations, it also remedies the procedures that shelter pork-barrel projects. This legislation would allow the President to single out both special tax benefits and wasteful projects in appropriations bills. Most importantly, it will establish a separate account in each rescission bill for deficit reduction. This will enable the President to set aside saving from any rescission to preserve spending cuts. As an original co-sponsor of the Deficit Reduction Trust Fund and the Deficit Reduction Lock Box, I know this concept can work.

This year's deficit is expected to be about \$220 billion—an improvement over prior years with better news to come. But to assure the trend continue downward we need to give the President this effect tool to cut fat from appropriations bills and to reduce the national deficit. I urge my colleagues to help restore fiscal responsibility to Congress by passing this measure and the Stenholm substitute.

Mr. CLINGER. Mr. Chairman, I yield 4 minutes to the gentleman from California [Mr. COX], a very valuable member of the committee.

Mr. COX. Mr. Chairman, I rise in support of the line-item veto. The line-item veto unfortunately is not before us today. Instead, H.R. 4600 is best described as pointing a garden hose at a forest fire. It is not a bad bill. It moves us a tiny step in the right direction. But we have a much better opportunity in the form of the Michel-Solomon substitute which is closest among our alternatives to the real line-item veto.

Mr. Chairman, there are opponents to the line-item veto certainly in the House. We have debated before the constitutional reasons that people have to oppose a line-item veto. These consist largely in concerns about shifting power from the legislature to the executive. Those arguments have been heard by the American people and the verdict is in. The American people in large numbers want a real line-item veto. That is why this President campaigned for one.

Mr. Chairman, certainly no one can suspect partisan politics in this since I as a Republican want to give Democratic President Bill Clinton a line-item veto. That is why we should vote in favor of the Michel-Solomon substitute.

Mr. Chairman, our deficit spending crisis has been building now for over 20 years. It threatens now to overwhelm our entire economy. H.R. 4600, the bill before us just now, would cause only the most marginal change in the budget act. It would not in any way enhance the President's weak existing power. It would only affect the timing of its use. A line-item veto should encourage budget savings by letting a President cut spending unless both Houses of Congress vote him down. This bill would perpetuate the current bias in favor of spending. It would let either House kill a spending cut simply by failing to vote on it. Worse yet, it is temporary. It applies only for this Congress. We are about to adjourn in 3 months. Worst of all, it does not even let the President channel any savings to deficit reduction, so the Congress is free to spend the found money on something else. This bill forces the President to propose rescissions within 3 days of receiving one of our mammoth appropriations bills. That is unworkable. A real line-item veto, like the Michel-Solomon substitute, would let the President exercise his rescission authority at any time during the fiscal year.

Finally, this bill, H.R. 4600, could be waived at any time by this House. Of course we have seen how over half of the budget measures considered in this House during the last Congress came to us under a rule that waived the Budget Act in its entirety. The Michel-Solomon substitute will not permit that.

Mr. Chairman, it is now too late for toothless tinkering. Before sundown today, our Government will lose \$1 billion. We will lose over \$1 billion every day that our Government is open for business this year. We will spend according to President Clinton's budget \$1.5 trillion, that is \$1,500 billion in the next year. In the next 3 years, we will go to \$1.6 trillion, \$1.7 trillion, and finally in 1998 \$1.8 trillion in spending.

Mr. Chairman, our children's jobs are literally vanishing before our eyes, pawned by all of this deficit spending so that Congress and the President can stave off real reform for a few more years. Now we are being offered a bit of camouflage, so-called expedited rescission this week, so-called entitlement caps next week, a legislative costume party where congressional spendthrifts can play Scrooge for a day.

Mr. Chairman, this is an unworthy response to a profound crisis. The American people have told us in no uncertain terms that they demand real change, a real line-item veto, the Michel-Solomon substitute.

Mr. Chairman, I should say a word about the Stenholm-Penny-Kasich amendment. It, too, is worthy of consideration, but the best alternative is the Michel-Solomon substitute.

Mr. SPRATT. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. FAZIO].

Mr. FAZIO. Mr. Chairman, I think the debate has left the impression that somehow Congress has not fulfilled its responsibilities on rescission of line items appropriations. Historically I think we have done far better than most people realize.

Mr. Chairman, I would like to read into the RECORD the summary of material that I will place in the RECORD about just what has happened in the last 20 years since the modern Budget Act was enacted.

We have had the Presidents who served during that period ask us 1,084 times to rescind spending. That spending reduction requested of us would total just under \$73 billion. We have agreed to about \$23 billion of the Presidents' requests, but more important we have gone beyond the Presidents' requests and reduced additionally appropriations by almost \$70 billion more during that 20-year period.

In other words, Congress has actually rescinded almost \$20 billion more than we have been asked for by the Presidents who served between 1974 and the present time. In other words, Congress has exceeded the requests by \$20 billion while not agreeing exactly with the priorities of the administrations that have served during this period.

Mr. Chairman, I think it would also be important to point out that the Congress has in 43 of the last 49 years appropriated less money than we were requested to by the various Presidents who served during that period. In fact, we have given the President, in a generic sense, \$73 billion less than requested in the last decade; \$73 billion less than we were asked to spend in the budgets submitted to us by the two Presidents who served during the last decade.

Mr. Chairman, if we are somehow derelict in our duty to cut spending in the appropriations process in the line items that come to us in the President's budget, I am at a loss to know what more we could have done. We have set an example.

Mr. Chairman, I include the document referred to in my remarks, as follows:

SUMMARY OF PROPOSED AND ENACTED RESCISSIONS, FISCAL YEARS 1974-94

Fiscal year	Rescissions proposed by President	Dollar amount proposed for rescission	Proposals accepted by Congress	Dollar amount of proposals enacted by Congress	Rescissions initiated by Congress	Dollar amount of rescissions initiated by Congress	Total rescissions enacted	Total dollar amount of budget authority rescinded
1994	65	\$3,172,180,000	45	\$1,293,478,546	81	\$2,374,416,284	126	\$3,667,894,830
1993	7	355,000,000	4	206,750,000	74	2,205,336,643	78	2,411,586,643
1992	128	7,879,473,690	26	2,067,546,000	131	22,526,953,054	157	24,594,499,054
1991	30	4,859,251,000	8	286,419,000	26	1,420,467,000	134	1,706,886,000
1990	11	554,258,000	0	0	71	2,304,986,000	71	2,304,986,000
1989	6	143,100,000	1	2,053,000	11	325,913,000	12	327,966,000
1988	0	0	0	0	61	3,888,663,000	61	3,888,663,000
1987	73	5,835,800,000	2	36,000,000	52	12,359,390,675	54	12,395,390,675
1986	83	10,125,900,000	4	143,210,000	7	5,409,410,000	11	5,552,620,000
1985	245	1,856,087,000	98	173,699,000	12	5,458,621,000	110	5,632,320,000
1984	9	636,400,000	3	55,375,000	7	2,188,689,000	10	2,244,064,000
1983	21	1,569,000,000	0	0	11	310,605,000	11	310,605,000
1982	32	7,907,400,000	5	4,365,486,000	5	48,432,000	10	4,413,918,000
1981	133	15,361,900,000	2101	10,880,935,550	43	3,736,490,600	144	14,617,426,150
1980	59	1,618,100,000	34	777,696,446	33	3,238,206,100	67	4,015,902,546
1979	11	908,700,000	9	723,609,000	1	47,500,000	10	771,109,000
1978	12	1,290,100,000	5	518,655,000	4	67,164,000	9	585,819,000
1977	20	1,926,930,000	9	813,690,000	3	172,722,943	12	986,412,934
1976	50	3,582,000,000	7	148,331,000	0	0	7	148,331,000
1975	87	2,722,000,000	38	386,295,370	1	4,999,704	39	391,295,074
1974	2	495,635,000	0	0	3	1,400,412,000	3	1,400,412,000
Total: 1974-1994	1,084	72,801,214,690	399	22,878,728,912	637	69,489,378,003	1,036	92,368,106,915

¹The Military Construction Appropriations Act of 1991 approved certain rescissions proposed by the President in 1990-41 days after the funds were released for obligation under the Impoundment Control Act. Presidential rescission proposals R90-4, R90-5, and R90.

²Thirty-three rescissions proposed by President Carter and totalling over \$1.1 billion are not included in this table. These rescission proposals were converted to deferrals by President Reagan in his Fifth Special Message for Fiscal Year 1981 dated February 13.

³The total estimate of budget authority rescinded is understated. This table does not include rescissions which eliminate an indefinite amount of budget authority.

But the truly troublesome facet of the Stenholm proposal is that the President does not have to identify objectionable areas of spending or taxation in the time frame he signs a bill. He can hold those issues back until he needs the vote or votes of the members in question. Perhaps he expects problems on the passage of next year's budget. Perhaps there will be a war powers issue. No President with the political sense to hold the office would send one of these rescissions up until the affected member or members crossed the line. What we are doing to our forefathers' carefully crafted notion of checks and balances is to hand the branch of Government whose authority has grown most rapidly in recent times, a permanent form of political blackmail to insure our submission. The difference between having a 3-day period in which a rescission would receive expedited procedure and an indefinite period might well prove to be the difference between having a President and a king. George Washington helped our Nation avoid a monarchy. Let us not impose one over 200 years later.

Mr. CLINGER. Mr. Chairman, I yield 2 minutes to the gentleman from Oklahoma [Mr. LUCAS], the newest member of the Committee on Government Operations.

Mr. LUCAS. Mr. Chairman, I thank my ranking Member, Mr. CLINGER, for yielding me this time.

Mr. Chairman, I am happy the House today will have opportunity to pass a true line item veto, a desperately needed reform to get our fiscal house in order. Republicans in Congress have been fighting for the line-item veto for over a decade. We agree with candidate Bill Clinton who, during the 1992 presidential campaign, endorsed the line-item veto to eliminate pork-barrel projects and cut Government waste.

Unfortunately, H.R. 4600 will not give the President what he claims he wants. H.R. 4600 is but a subterfuge, a sad imposter of the true line-item veto. A genuine item veto allows the President to cancel wasteful spending items unless both houses of Congress override the veto by a two-thirds vote. This bill, however, would allow a bare majority of either house of Congress to block any rescission. Even worse, this bill would only apply to this year's appropriations bills, all of which the House has already passed. In short, Mr. Speaker, H.R. 4600 is business as usual, and business as usual is what got us into this budgetary mess in the first place.

In fact, H.R. 4600 is so weak that we must ask why we are even bothering to consider it now. On April 29, 1993, the House passed another measure identical to this one. Why pass the same bill twice? Will that in any way improve its chances of becoming law? Of course not. It seems the only reason for debating this issue again is to give political cover to those Democrats who will be forced by their liberal leadership into withdrawing support for the "A to Z" spending cuts plan, the only opportunity for cutting spending we will have this year. As a proud new member of the Government Operations Committee, I note that all these problems with H.R. 4600 could have been remedied in committee had our chairman not inexplicably waived jurisdiction over this bill.

Despite the weaknesses of H.R. 4600, we will yet have opportunity to enact a true line-item veto. The Michel-Solomon substitute amendment will grant the President permanent authority to

veto items in appropriations bills and targeted tax benefits in revenue bills. It requires both the President and Congress to act within 20 days, and provides for a vote on the entire package of rescissions. Most importantly, it requires a two-thirds majority of both houses to override the veto or rescission. While the Stenholm substitute may be an acceptable improvement over H.R. 4600, the Michel-Solomon substitute is preferable because it will genuinely reform the rescission process in order to protect the American taxpayer from wasteful spending.

During my tenure as an Oklahoma State legislator, I witnessed firsthand how the line-item veto helped to restrain excessive spending. Here in Congress, the line-item veto will be an effective check on Congress's unfettered power of the purse, and a good way to counter the pressure special interests place on Congress to hike spending higher and higher. In the name of meaningful budget reform to protect generations of American taxpayers, I urge my colleagues to support the Michel-Solomon amendment.

Mr. CLINGER. Mr. Chairman, I yield 2 minutes to the gentleman from Illinois [Mr. FAWELL].

Mr. FAWELL. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I rise in support of the Solomon-Michel substitute to the expedited rescissions act.

Let there be no mistake about the series of votes we will have today. The Solomon-Michel substitute is the only true line-item veto proposal before us. If you campaigned for the line-item veto you vote for the Solomon-Michel substitute. Accept no substitutes. The Solomon-Michel proposal is the real thing, because it gives the President the authority to not spend money for a project unless Congress passes a bill disapproving the rescission, thus requiring Congress to act to stop the rescission. Then the President could veto the disapproval, and Congress could only force the expenditure of the line item by a two-thirds vote overriding the veto.

The other proposal before us, the Spratt proposal, is not a line-item veto bill. And it is only a temporary provision at best and, of course, it has all of those provisions that allows the Committee on Rules to waive and dismiss the rules.

Our Committee on Rules has sometimes been described as a committee that has a plethora of waivers and then once in a while will enforce the rule.

If we are going to blame the President for not controlling spending, and we like to do that, but we know Congress is in control, then let us at least give him coequal power to do something about it. Give him the real line-item veto.

I urge my colleagues to support the Solomon-Michel substitute, the real thing, the real line-item veto.

Should this substitute fail, I then will support the Stenholm-Penny-Kasich substitute, because it is a vast improvement over the enhanced rescission power we presently have.

Mr. CLINGER. Mr. Chairman, I yield myself 1 minute, the remainder of my time.

Mr. Chairman, in closing, I would just urge a vote for the Michel-Solomon substitute, because as has been indicated here, it is the only true line-item veto.

We are engaged here in, I think, an exercise of futility if we were to pass 4600. It has not been dealt with by the other body in an entire year. I think we need to go on record here today as supporting a true line-item veto.

We may not achieve the goal in this Congress, but we certainly can send a signal that this is what this body supports, not smoke and mirrors, but true deficit reduction which would be represented by a plus vote, an aye vote, for the Michel-Solomon substitute.

Mr. Chairman, I yield back the balance of my time.

Mr. ZELIFF. Mr. Chairman, due to the funeral service of a close, personal friend of mine, Mike Tinios, I was unable to vote on the amendments and final passage of H.R. 4600, Expedited Rescissions Act of 1994. Had I been present, I would have voted to oppose the Spratt-Derrick amendment and supported both the Stenholm-Penny-Kasich amendment and the Michel-Solomon amendment.

Budget process reform is important. Reducing the deficit is vital. If we are ever going to make any progress to cut spending and begin to dig ourselves out from under the staggering debt that we have accumulated over years—a debt which costs the taxpayer over \$212 billion a year in interest alone—we must take spending cut action now. That is why ROB ANDREWS and I launched the A-to-Z spending cuts plan, to start a process that will result in real spending cuts, real deficit reduction. We cannot continue spending taxpayer dollars with reckless abandon and, in the process, saddle our children and grandchildren with greater and greater debt.

Make no mistake, Mr. Chairman, the so-called expedited rescissions bill is a transparent political move aimed at derailing the A-to-Z train. 204 members have already signed our discharge petition. It has been no secret that the leadership is terrified at the prospect of returning the power of the purse to the rank and file members of the House. Rather than continuing the status quo, where a few powerful committee chairman dictate our funding priorities, A to Z opens the process to all Members of Congress.

A to Z provides a 56-hour session devoted exclusively to cutting the budget. Everything is on the table, entitlements, discretionary programs, everything. Any Member may offer an amendment to cut spending—no restrictive rules. Programs that stand on their merits will be funded; those that don't will be cut. It's just that simple.

The American people mistakenly believe that Congress follows this process already. We do not, and this must change. The Spratt version of the Expedited Rescissions Act does not give us the reforms that are so desperately needed to cut spending and balance the budget. We need real spending cuts and real deficit reduction now, not the weak process changes called for in H.R. 4600.

For the sake of future generations, we must do better. I hope the House leadership will listen to the people and let the A-to-Z plan move forward. We should support the Stenholm and Solomon budget process reforms. They improve the process, but they don't provide spending cuts now. We need both real budget process reform and we need real A-to-Z spending cuts now.

If the Stenholm or Solomon amendments pass, I would support final passage of H.R. 4600. If both of these amendment fail, then I would vote to oppose final passage.

Finally, Mr. Chairman, had I been present, I would have voted to oppose the rule of H.R. 3937, the Export Administration Act.

Mr. FRANKS of Connecticut. Mr. Chairman, this exact same rescissions bill was considered by the House last year. Here it is again for our consideration. How many more times will the fiscally irresponsible majority in Congress pretend to be fiscally responsible before the public catches on?

The bill that the Democrats have brought up today is not a real line-item veto. It is deceptive to say that it is. A Presidential veto requires Congress to get a two-thirds majority to overrule it. This bill only requires a majority vote. In addition, this bill does not even provide an actual veto. A veto majority overrules a presidential decision. In this bill a majority vote is needed, not to reject the President's request to delete spending, but to approve it. Anything less keeps that wasteful spending in the bill for the rest of the year.

I will support two amendments to this bill to make it more meaningful. The bipartisan Kasich substitute would allow the President the option to put savings from a rescission into an account dedicated for deficit reduction. It would also force Congress to defeat a presidential veto in order to keep spending in a bill.

My first choice for passage would be the Michel substitute, which would give the President a line-item veto as powerful as the one held by Governors of 43 States. For those Americans, such as those in Connecticut, who are not represented by a Governor with a line-item veto, let me explain this substitute. It would allow the President to reject spending projects unless Congress overruled the rescission with a two-thirds majority vote. This is a true line-item veto. As a sponsor of a constitutional amendment giving the President a line-item veto, I would be very pleased to see the Michel amendment become law.

Mr. LAZIO. Mr. Chairman, like many of us who were elected to the 103d Congress, I was sent to Washington with a mandate for change. For the past 19 months my highest priorities have been reducing the Federal debt and the deficit. Several times in those 19 months I have been faced with challenges to carry out this mandate. Today is another such occasion.

Today, while I voted for the Expedited Rescission Act of 1994, I have to say this Congress could do better for the American people. This bill is a step in the right direction. The existing rescission process is a joke, and makes it harder to cut wasteful spending instead of easier. We have significantly strengthened the process by adopting the Penny-Kasich-Stenholm amendment, for which I voted. However, we could have improved it even more by adopting the Michel-Solomon amendment, which I also supported. Congress needs to deal with the debt and deficit right now. We need to go further and adopt a line-item veto. I will continue to work for opportunities to make the line-item veto a reality.

The Expedited Rescission Act of 1994 should not be considered a replacement for the line-item veto or the A-to-Z spending cuts package. As a cosponsor of the A to Z proposal, and a signer of the discharge petition. I urge the leadership on the other side of the aisle to move A-to-Z to the floor. We must not sit back and point to our minor successes, but must directly deal with America's prob-

lems. Our work is just beginning. Let's also enact a line-item veto and the A-to-Z proposal.

Mr. HUGHES. Mr. Chairman, I rise in support of H.R. 4600, the Expedited Rescissions Act of 1994.

At the outset it is significant to note that H.R. 4600 is identical to a bill which just last year passed the House with strong support, yet received no further legislative action. In this regard, it is incumbent upon us to pass this measure in order to once again drive home the importance of achieving real budget process reform.

We are all well aware of the current practice in Congress of bundling the thousands of Federal spending programs we oversee into the 13 appropriations bills. While this process helps to assure that Federal funds are distributed equitably, it is clear that this process has been abused. By passing H.R. 4600 we have the opportunity to prevent further abuse.

All too often we hear reports of errant projects slipped into appropriations bills thereby circumventing the required scrutiny of the authorization process. In other instances, our fiscal needs simply change over the course of the year and we find there is room to reduce substantially, or totally eliminate funding which has been included in appropriations bills.

H.R. 4600 recognizes these possibilities and provides a mechanism to effectuate such spending reductions while still maintaining the constitutionally mandated balance of power between the Congress and the President with respect to the appropriation of funds.

Pursuant to H.R. 4600, the Congressional Budget and Impoundment Control Act of 1974 would be amended to provide for a fast-track process for considering and voting on Presidential proposals embodied in a bill to rescind budget authority provided for in an appropriations measure. The bill also provides for a procedure for the Congress to consider an alternative rescissions package drafted by the House or Senate Appropriations Committees.

Specifically the bill will give the President the authority to pick out of appropriations bills which he signs those items which he feels are wasteful or which should not have been included in the bill in the first place. If the President submits his rescission proposal within 3 days after signing an appropriations bill, a legislative process is automatically triggered whereby a House floor vote on the President's rescissions package must take place within 10 legislative days of introduction.

If the President's rescissions proposal is rejected by the House, a vote on an alternative rescissions bill reported by the House Appropriations Committee must be taken by the close of business on the 11th day following introduction of the President's rescission package. If the House does not pass either the President's rescissions package or the Appropriation Committee's alternative measure, the Senate would not act.

However, if the House passes either the President's rescission proposal or the Appropriations Committee's alternative bill, the Senate would have the opportunity to vote on the President's package. As in the House, if the Senate rejects the President's proposal, the Senate may consider an alternative rescissions package reported by the Senate Appropriations Committee. The Senate would

only have 10 legislative days within which to consider the President's proposal and the Appropriations Committee's alternative.

In this regard, H.R. 4600 is similar to the line-item veto authority which many of my colleagues have advocated. However the major difference is that this measure will maintain Congress' Constitutional prerogative to appropriate funds without unduly shifting power to the executive branch.

I strongly support the expedited rescissions process. However, it would be a myopic view of the deficit problem we currently face to assume that merely passing H.R. 4600 will resolve this comprehensive fiscal dilemma.

Rather, the expedited rescissions process is a good step in the right direction toward restoring real discipline to the Budget Process. In addition to this initiative, we must continue to carefully scrutinize appropriations bills in order to identify spending programs which we don't need or can't afford. Moreover, we must follow up on that scrutiny by continuing to make the tough choices to cut programs, regardless of their popularity or political appeal.

H.R. 4600 will not only help us tighten the reins on Government spending, but also it will restore a sense of accountability to the appropriations process, and I would urge my colleagues to join me in support of this legislation.

Mr. KYL. Mr. Chairman, I rise in support of the Michel-Solomon substitute, which comes closest to a true line-item veto for the President. I will also support the Stenholm-Penny-Kasich substitute as the next best alternative to the base bill, H.R. 4600.

If the House is serious about a line-item veto bill, it will approve one of the two alternatives, preferably Michel-Solomon, because H.R. 4600 will just not do the job. H.R. 4600 is identical to the weak substitute for a line-item veto that the House passed early last year, and which is still pending in the Senate without action.

If H.R. 4600 passes in its current form, it's nothing more than cover for those Members of the House who won't cosign the discharge petition to ensure action on the A-to-Z spending cut proposal. The National Taxpayers Union—the respected, nonpartisan organization dedicated to protecting taxpayers' interests, first and foremost—has even urged a no vote on the base bill, recognizing it's a fraud.

It won't give the President real line-item veto authority. It won't even ensure that Congress will actually vote on the budget rescissions that the President might propose. The proposed new rescissions process in H.R. 4600 can be set aside, waived or suspended by a special rule of the House. It won't even apply beyond the 3½ months left in the 103d Congress.

Michel-Solomon, by contrast, would provide permanent authority for the President to propose rescissions in spending bills and targeted tax benefits in revenue bills. And unlike the current process whereby Congress can kill the President's proposed spending cuts by doing nothing at all, Michel-Solomon would ensure that the cuts proposed by the President would become effective unless Congress actually votes to reject them.

Mr. Chairman, a vote for H.R. 4600 in its current form is a vote for the status quo, something to make the people back home think the House is supporting budget reform when it's really not. Well

I have news for those of our colleagues looking for cover: The American people aren't going to be fooled. They know the real thing when they see it.

I urge a "yes" vote on Stenholm-Penny-Kasich amendment, and another "yes" on the Michel-Solomon substitute. Anything less is nothing at all.

Mr. PORTER. Mr. Chairman, the national debt and the yearly deficits which enlarge it are our Nation's most serious problems. They are nothing less than cancers devouring the economic core of this Nation. Every dollar added to the debt makes us that much more dependent on foreign lenders and condemns another one of our children to a life of diminished economic opportunity. The American people deserve better than what this Congress and the Clinton administration have given them in terms of deficit reduction.

Mr. Chairman, with the economy in recovery, we have a unique opportunity to make further spending cuts to better address our fiscal problems. Unfortunately, the President and the Democratic leadership of this House don't want to do that. They don't want to reduce this bloated Federal Government further and stem the tide of red ink flowing from Washington. Last year, they pulled out all the stops to defeat the Penny-Kasich amendment which would have cut Federal spending by just 1 percent over 5 years and lowered the deficit by \$90 billion. Earlier this year, they fought a proposed balanced budget amendment to the Constitution. Today, they have brought this modest rescission improvement proposal to the floor not because they care about eliminating wasteful Federal spending, but instead as part of an effort to undermine support for the A-to-Z spending cuts plan, a plan which I support. Had the leadership run this House with a modicum of openness and fairness, A to Z would never have come to life.

Mr. Chairman, the House last year debated and passed legislation identical to H.R. 4600. I supported passage of that legislation which today finds itself languishing in the Senate as the clock ticks down the final weeks of this 103d Congress. H.R. 4600 is an improvement over the current rescission process, but debating and passing it when we have effectively already done so is a questionable exercise. If the leadership really cared about eliminating waste in Government, if it was truly concerned about reducing the deficit, if it really wanted to strengthen America's economy, it wouldn't have fought Penny-Kasich, wouldn't have opposed the balanced budget amendment, and wouldn't try to undercut the A-to-Z plan by bringing up the same modest rescission bill twice. We can do better, Mr. Chairman. We have to if this Nation wants any kind of prosperity in its future.

Mrs. LLOYD. Mr. Chairman, the news on the economy is good. Job creation, economic growth, consumer confidence are all up. Inflation is holding steady. The deficit is going down, and in fact, more so than originally predicted with passage of last year's reconciliation act. All of these are indeed excellent signs, but Congress should not be content to rest on our laurels. If we want to continue these positive trends, we must find ways to cut spending and reduce the deficit even further.

Toward that end, I rise in strong support of H.R. 4600, major budget reform legislation that will increase congressional accountability in the spending process.

While much of the country's attention has been focused on the health care debate, the calls and letters continue to flow into my office regarding the need to cut spending and reduce the deficit. I could not agree with them more. But we must not only cut spending, we need to institute reforms in the budget process itself.

H.R. 4600, the expedited rescission bill is exemplary of the budget process reforms required for responsible spending. Forcing Congress to vote on rescissions submitted by the President puts every Member on record in support of or opposed to spending on a variety of programs. And the new process demands timely action—the rescission bill must be voted on within 10 days of its receipt in Congress.

I believe H.R. 4600 could be made even stronger if we adopt the Stenholm substitute. Expedited rescission procedures should be made a permanent part of the budget process. I also believe the President should have the authority to reject targeted tax benefits. And Congress should have the right to vote on any individual rescission contained within the package. All of the improvements are contained in the Stenholm substitute.

Mr. Chairman, passage of H.R. 4600 is one step in many that we must take to increase our accountability and credibility with the voters. I urge its unanimous adoption.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the bill is considered as read for amendment under the 5-minute rule.

The text of H.R. 4600 is as follows:

H.R. 4600

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Expedited Rescissions Act of 1994".

SEC. 2. EXPEDITED CONSIDERATION OF CERTAIN PROPOSED RESCISSIONS.

(a) IN GENERAL.—Part B of title X of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 681 et seq.) is amended by redesignating sections 1013 through 1017 as sections 1014 through 1018, respectively, and inserting after section 1012 the following new section:

"EXPEDITED CONSIDERATION OF CERTAIN PROPOSED RESCISSIONS

"SEC. 1013. (a) PROPOSED RESCISSION OF BUDGET AUTHORITY.—In addition to the method of rescinding budget authority specified in section 1012, the President may propose, at the time and in the manner provided in subsection (b), the rescission of any budget authority provided in an appropriation Act. Funds made available for obligation under this procedure may not be proposed for rescission again under this section or section 1012.

"(b) TRANSMITTAL OF SPECIAL MESSAGE.—

"(1) Not later than 3 calendar days after the date of enactment of an appropriation Act, the President may transmit to Congress one special message proposing to rescind amounts of budget authority provided in that Act and include with that special message a draft bill that, if enacted, would only rescind that budget authority. That bill shall clearly identify the amount of budget authority that is proposed to be rescinded for each program, project, or activity to which that budget authority relates.

"(2) In the case of an appropriation Act that includes accounts within the jurisdiction of more than one subcommittee of the Committee on Appropriations, the President in proposing to rescind budget authority under this section shall send a separate special message and accompanying draft bill for accounts within the jurisdiction of each such subcommittee.

"(3) Each special message shall specify, with respect to the budget authority proposed to be rescinded, the matters referred to in paragraphs (1) through (5) of section 1012(a).

"(c) PROCEDURES FOR EXPEDITED CONSIDERATION.—

"(1)(A) Before the close of the second legislative day of the House of Representatives after the date of receipt of a special message transmitted to Congress under subsection (b), the majority leader or minority leader of the House of Representatives shall introduce (by request) the draft bill accompanying that special message. If the bill is not introduced as provided in the preceding sentence, then, on the third legislative day of the House of Representatives after the date of receipt of that special message, any Member of that House may introduce the bill.

"(B)(i) The bill shall be referred to the Committee on Appropriations of the House of Representatives. The committee shall report the bill without substantive revision, and with or without recommendation. The bill shall be reported not later than the seventh legislative day of that House after the date of receipt of that special message. If the Committee on Appropriations fails to report the bill within that period, that committee shall be automatically discharged from consideration of the bill, and the bill shall be placed on the appropriate calendar.

"(ii) The Committee on Appropriations may report to the House, within the 7-legislative day period described in clause (i), an alternative bill which—

"(I) contains only rescissions to the same appropriation Act as the bill for which it is an alternative; and

"(II) which rescinds an aggregate amount of budget authority equal to or greater than the aggregate amount of budget authority rescinded in the bill for which it is an alternative.

"(C) A vote on final passage of the bill referred to in subparagraph (B)(i) shall be taken in the House of Representatives on or before the close of the 10th legislative day of that House after the date of the introduction of the bill in that House. If the bill is passed, the Clerk of the House of Representatives shall cause the bill to be engrossed, certified, and transmitted

to the Senate within one calendar day of the day on which the bill is passed.

“(D) Upon rejection of the bill described in subparagraph (B)(i) on final passage, a motion in the House to proceed to consideration of the alternative bill reported from the Committee on Appropriations under subparagraph (B)(ii) shall be highly privileged and not debatable.

“(E) A vote on final passage of the bill referred to in subparagraph (B)(ii) shall be taken in the House of Representatives on or before the close of the 11th legislative day of that House after the date of the introduction of the bill in that House for which it is an alternative. If the bill is passed, the Clerk of the House of Representatives shall cause the bill to be engrossed, certified, and transmitted to the Senate within one calendar day of the day on which the bill is passed.

“(2)(A) A motion in the House of Representatives to proceed to the consideration of a bill under this section shall be highly privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

“(B) Debate in the House of Representatives on a bill under this section shall not exceed 4 hours, which shall be divided equally between those favoring and those opposing the bill. A motion further to limit debate shall not be debatable. It shall not be in order to move to recommit a bill under this section or to move to reconsider the vote by which the bill is agreed to or disagreed to.

“(C) Appeals from decisions of the Chair relating to the application of the Rules of the House of Representatives to the procedure relating to a bill under this section shall be decided without debate.

“(3)(A) A bill transmitted to the Senate pursuant to paragraph (1) (C) or (E) shall be referred to its Committee on Appropriations. The committee shall report the bill either without substantive revision or with an amendment in the nature of a substitute, and with or without recommendation. The bill shall be reported not later than the seventh legislative day of the Senate after it receives the bill. A committee failing to report the bill within such period shall be automatically discharged from consideration of the bill, and the bill shall be placed upon the appropriate calendar.

“(B) A vote on final passage of a bill transmitted to the Senate shall be taken on or before the close of the 10th legislative day of the Senate after the date on which the bill is transmitted.

“(4)(A) A motion in the Senate to proceed to the consideration of a bill under this section shall be privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

“(B) Debate in the Senate on a bill under this section, and all amendments thereto and all debatable motions and appeals in connection therewith, shall not exceed 10 hours. The time

shall be equally divided between, and controlled by, the majority leader and the minority leader or their designees.

“(C) Debate in the Senate on any debatable motion or appeal in connection with a bill under this section shall be limited to not more than 1 hour, to be equally divided between, and controlled by, the mover and the manager of the bill, except that in the event the manager of the bill is in favor of any such motion or appeal, the time in opposition thereto, shall be controlled by the minority leader or his designee. Such leaders, or either of them, may, from time under their control on the passage of a bill, allot additional time to any Senator during the consideration of any debatable motion or appeal.

“(D) A motion in the Senate to further limit debate on a bill under this section is not debatable. A motion to recommit a bill under this section is not in order.

“(d) AMENDMENTS AND DIVISIONS GENERALLY PROHIBITED.—(1) Except as provided by paragraph (2), no amendment to a bill considered under this section or to a substitute amendment referred to in paragraph (2) shall be in order in either the House of Representatives or the Senate. It shall not be in order to demand a division of the question in the House of Representatives (or in a Committee of the Whole) or in the Senate. No motion to suspend the application of this subsection shall be in order in either House, nor shall it be in order in either House to suspend the application of this subsection by unanimous consent.

“(2)(A) It shall be in order in the Senate to consider an amendment in the nature of a substitute reported by the Committee on Appropriations under subsection (c)(3)(A) that complies with subparagraph (B).

“(B) It shall only be in order in the Senate to consider any amendment described in subparagraph (A) if—

“(i) the amendment contains only rescissions to the same appropriation Act as the bill that it is amending contained; and

“(ii) the aggregate amount of budget authority rescinded equals or exceeds the aggregate amount of budget authority rescinded in the bill that it is amending;

unless that amendment consists solely of the text of the bill as introduced in the House of Representatives that makes rescissions to carry out the applicable special message of the President.

“(C) It shall not be in order in the Senate to consider a bill or an amendment in the nature of a substitute reported by the Committee on Appropriations under subsection (c)(3)(A) unless the Senate has voted upon and rejected an amendment in the nature of a substitute consisting solely of the text of the bill as introduced in the House of Representatives that makes rescissions to carry out the applicable special message of the President.

“(e) REQUIREMENT TO MAKE AVAILABLE FOR OBLIGATION.—Any amount of budget authority proposed to be rescinded in a special message transmitted to Congress under subsection (b) shall be made available for obligation on the earlier of—

“(1) the day after the date upon which the House of Representatives defeats the text of the bill transmitted with that special message rescinding the amount proposed to be re-

scinded and (if reported by the Committee on Appropriations) the alternative bill; or

“(2) the day after the date upon which the Senate rejects a bill or amendment in the nature of a substitute consisting solely of the text of the bill as introduced in the House of Representatives that makes rescissions to carry out the applicable special message of the President.

“(f) DEFINITIONS.—For purposes of this section—

“(1) the term ‘appropriation Act’ means any general or special appropriation Act, and any Act or joint resolution making supplemental, deficiency, or continuing appropriations; and

“(2) the term ‘legislative day’ means, with respect to either House of Congress, any calendar day during which that House is in session.”.

(b) EXERCISE OF RULEMAKING POWERS.—Section 904 of such Act (2 U.S.C. 621 note) is amended—

(1) by striking “and 1017” in subsection (a) and inserting “1013, and 1018”; and

(2) by striking “section 1017” in subsection (d) and inserting “sections 1013 and 1018”; and

(c) CONFORMING AMENDMENTS.—

(1) Section 1011 of such Act (2 U.S.C. 682(5)) is amended—

(A) in paragraph (4), by striking “1013” and inserting “1014”; and

(B) in paragraph (5)—

(i) by striking “1016” and inserting “1017”; and

(ii) by striking “1017(b)(1)” and inserting “1018(b)(1)”.

(2) Section 1015 of such Act (2 U.S.C. 685) (as redesignated by section 2(a)) is amended—

(A) by striking “1012 or 1013” each place it appears and inserting “1012, 1013, or 1014”; and

(B) in subsection (b)(1), by striking “1012” and inserting “1012 or 1013”; and

(C) in subsection (b)(2), by striking “1013” and inserting “1014”; and

(D) in subsection (e)(2)—

(i) by striking “and” at the end of subparagraph (A);

(ii) by redesignating subparagraph (B) as subparagraph (C);

(iii) by striking “1013” in subparagraph (C) (as so redesignated) and inserting “1014”; and

(iv) by inserting after subparagraph (A) the following new subparagraph:

“(B) he has transmitted a special message under section 1013 with respect to a proposed rescission; and”.

(3) Section 1016 of such Act (2 U.S.C. 686) (as redesignated by section 2(a)) is amended by striking “1012 or 1013” each place it appears and inserting “1012, 1013, or 1014”.

(d) CLERICAL AMENDMENTS.—The table of sections for subpart B of title X of such Act is amended—

(1) by redesignating the items relating to sections 1013 through 1017 as items relating to sections 1014 through 1018; and

(2) by inserting after the item relating to section 1012 the following new item:

"Sec. 1013. Expedited consideration of certain proposed rescissions."

SEC. 3. APPLICATION.

(a) IN GENERAL.—Section 1013 of the Congressional Budget and Impoundment Control Act of 1974 (as added by section 2) shall apply to amounts of budget authority provided by appropriation Acts (as defined in subsection (f) of such section) that are enacted during the One Hundred Third Congress.

(b) SPECIAL TRANSITION RULE.—Within 3 calendar days after the beginning of the One Hundred Fourth Congress, the President may retransmit a special message, in the manner provided in section 1013(b) of the Congressional Budget and Impoundment Control Act of 1974 (as added by section 2), proposing to rescind only those amounts of budget authority that were contained in any special message to the One Hundred Third Congress which that Congress failed to consider because of its sine die adjournment before the close of the time period set forth in such section 1013 for consideration of those proposed rescissions. A draft bill shall accompany that special message that, if enacted, would only rescind that budget authority. Before the close of the second legislative day of the House of Representatives after the date of receipt of that special message, the majority leader or minority leader of the House of Representatives shall introduce (by request) the draft bill accompanying that special message. If the bill is not introduced as provided in the preceding sentence, then, on the third legislative day of the House of Representatives after the date of receipt of that special message, any Member of that House may introduce the bill. The House of Representatives and the Senate shall proceed to consider that bill in the manner provided in such section 1013.

SEC. 4. TERMINATION.

The authority provided by section 1013 of the Congressional Budget and Impoundment Control Act of 1974 (as added by section 2) shall terminate 2 years after the date of enactment of this Act.

SEC. 5. JUDICIAL REVIEW.

(a) EXPEDITED REVIEW.—

(1) Any Member of Congress may bring an action, in the United States District Court for the District of Columbia, for declaratory judgment and injunctive relief on the ground that any provision of section 1013 (as added by section 2) violates the Constitution.

(2) A copy of any complaint in an action brought under paragraph (1) shall be promptly delivered to the Secretary of the Senate and the Clerk of the House of Representatives, and each House of Congress shall have the right to intervene in such action.

(3) Any action brought under paragraph (1) shall be heard and determined by a three-judge court in accordance with section 2284 of title 28, United States Code.

Nothing in this section or in any other law shall infringe upon the right of the House of Representatives to intervene in an action brought under paragraph (1) without the necessity of adopting a resolution to authorize such intervention.

(b) **APPEAL TO SUPREME COURT.**—Notwithstanding any other provision of law, any order of the United States District Court for the District of Columbia which is issued pursuant to an action brought under paragraph (1) of subsection (a) shall be reviewable by appeal directly to the Supreme Court of the United States. Any such appeal shall be taken by a notice of appeal filed within 10 days after such order is entered; and the jurisdictional statement shall be filed within 30 days after such order is entered. No stay of an order issued pursuant to an action brought under paragraph (1) of subsection (a) shall be issued by a single Justice of the Supreme Court.

(c) **EXPEDITED CONSIDERATION.**—It shall be the duty of the District Court for the District of Columbia and the Supreme Court of the United States to advance on the docket and to expedite to the greatest possible extent the disposition of any matter brought under subsection (a).

The **CHAIRMAN**. No amendment shall be in order except the amendments printed in House Report 103-565, which may be offered only in the order printed and by the Member designated in the report, shall be considered as read, shall not be subject to amendment except as specified in the report, and shall not be subject to a demand for division of the question.

Debate on each amendment will be equally divided and controlled by the proponent and an opponent of the amendment.

AMENDMENT OFFERED BY MR. DERRICK

Mr. **DERRICK**. Mr. Chairman, I offer an amendment.

The **CHAIRMAN**. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. **DERRICK**: Page 10, line 17, insert “, unless the House has passed the text of the President’s bill transmitted with that special message and the Senate passes an amendment in the nature of a substitute reported by its Committee on Appropriations” before the period.

Page 11, line 21, insert “and by striking ‘1012 and 1013’ and inserting ‘1012, 1013, and 1014’” before the semicolon.

Page 12, line 1, strike “(2)” and insert “(1)”.

Page 14, strike lines 7 through 11 and on line 12, strike “5” and insert “4”.

The **CHAIRMAN**. Pursuant to the rule, the gentleman from South Carolina will be recognized for 5 minutes, and a Member opposed will be recognized for 5 minutes.

The Chair recognizes the gentleman from South Carolina [Mr. **DERRICK**].

Mr. **DERRICK**. Mr. Chairman, I yield myself 90 seconds.

Mr. Chairman, this technical amendment would make three clarifications and corrections to the bill. First, the amendment would clarify that the funds proposed to be rescinded remain unavailable for obligation so long as approval legislation remains viable. Under the bill as reported, funds would be released after Senate rejection of the President’s rescission bill even if the Senate instead passed an alternative measure.

Second, the amendment corrects two simple drafting errors in the conforming amendments subsection.

Finally, the amendment deletes section 4 of the bill, which conflicts with subsection 3(a), to clarify that the new procedure applies only to budget authority enacted during the 103d Congress.

Mr. Chairman, I know of no objection to this amendment.

Mr. SOLOMON. Mr. Chairman, I would not seek time in opposition, but I would ask if the gentleman will yield to me for a question.

Mr. DERRICK. I yield to the gentleman from New York.

Mr. SOLOMON. Mr. Chairman, the technical amendment we are about to vote on is the amendment that is printed in the RECORD and has not been changed in any way? Is that correct?

Mr. DERRICK. That is correct.

Mr. SOLOMON. Mr. Chairman, we certainly have no objection. We would support that amendment.

Mr. DERRICK. Mr. Chairman, I yield 3½ minutes, the balance of my time, to the gentleman from Illinois [Mr. DURBIN].

Mr. DURBIN. Mr. Chairman, we will hear many speeches during the course of this afternoon about the determination of Members of Congress to cut spending and to reduce the budget deficit. In order that this be kept in perspective, I think we should recall that many of the Democrats who spoke, and all of the Republicans who will speak, voted against President Clinton's effort to reduce the deficit with his budget deficit reduction plan of last year. That plan has resulted in the greatest reduction in the Federal deficit that we have seen at any time since the tenure of President Truman. It is anticipated that we will cut almost \$700 billion from that deficit.

It must strike many people listening as curious that we find ourselves wrapped in this conversation and dialog about budget deficit reduction, and yet when it came down to an actual vote to reduce the deficit, so many of the Members who stand here proclaiming their personal allegiance to deficit reduction were nowhere to be found.

But let me give you another example closer to home. June 17, almost a month ago, I brought to this floor an appropriation bill, the gentleman can probably recall, for the agencies of the Department of Agriculture, Food and Drug Administration, and several related agencies. This bill reflected what we will see for years to come, because of the Clinton deficit reduction plan, a dramatic cut in spending.

Let me tell you specifically what I am saying: Of the \$13 billion in discretionary spending in that bill in last year's appropriation, our subcommittee was forced to cut 10 percent, \$1.3 billion. Anyone running a business or managing an agency of Government can tell you that a cut in an appropriation of 10 percent in 1 year is a tough cut. It goes way beyond any cosmetic cut. It is a cut that is part of real deficit reduction.

What I found curious, as a Democrat, when I brought this bill to the floor, was a Member of the Republican side circulated a letter saying these cuts were too deep, that Members on his side of the aisle should vote against my appropriation because we cut too much from programs that he favored, in fact, programs I favored too.

But it is part of the harsh reality of real deficit reduction that we have to face these things. If we are going to reduce the deficit, we must reduce spending.

When that bill was called for final passage, 127 Members of this House of Representatives voted against my bill which cut 10 percent in discretionary spending, cut \$1.3 billion from last year's bill, and if you take a look at the 127 Members of the House who voted against my bill, a real budget, guess what, 120 of these are people who have walked up here and ceremoniously signed the A to Z petition saying they want to really cut spending. They would not cut it when I called my bill.

One hundred twenty-two of them are balanced-budget amendment sponsors, people who wear the bumper stickers and make the speeches at home about balancing budgets and come here to the floor and refuse to vote for an appropriation bill that really cuts spending.

One hundred fifteen of them voted for the Kasich budget plan which would have cut even more for agriculture, and yet the Kasich plan was a theory.

The bill I called up was a fact. But what I am saying to the Members of the House and all those who are listening is that the real test of cutting a budget is whether you will vote for an appropriation bill that cuts spending. When it came to the time for that test, a lot of the people making the greatest speeches today failed.

The CHAIRMAN pro tempore (Mr. DE LA GARZA). Does any Member rise in opposition to the amendment?

Mr. SOLOMON. Mr. Chairman, I would rise in opposition, reserving the right to change my mind.

Mr. Chairman, I yield to a member of the Committee on Agriculture, the gentleman from Wisconsin [Mr. GUNDERSON].

Mr. GUNDERSON. I thank the gentleman for yielding.

Mr. Chairman, I think it is important that everyone understand exactly the misrepresentation which just occurred about the vote on the agriculture appropriation bill.

Mr. Chairman, I cannot help it if the 602(b) allocation that Mr. DURBIN was able to get for his agriculture appropriation was less than he wanted. Everybody knows it was not reflective of the budget agreement per se, No. 1. No. 2, the reason we all voted and led the fight against the agriculture appropriation, as he well knows, is because it cut funding for production agriculture at the very same time it increased funding for the social programs. That was the fight. There was no money in there for crop insurance, he knows that; there was an 18-percent drop in the Commodity Credit Corporation farm support program.

Now, what the fight about the agriculture appropriation bill was the allocation of the money as it occurred. Many of us are happy to take the bottom-line cuts, but if we are going to take the bottom-line cuts, we are not going to increase food stamps, WIC, all those programs, while we cut agriculture, which is the whole purpose of the agriculture appropriation bill.

Mr. SOLOMON. Mr. Chairman, reclaiming my time, I will take some exception to what the gentleman has said. He has been critical of Members who have taken to the well and supported either the Stenholm approach or the Solomon approach. All of those Mem-

bers have the highest ratings by the National Taxpayers Union year in and year out. That is how people tell whether we are a big spender or not.

When it comes to deficit reduction and the President's plan, yes, those of us who voted against it did so because it was the biggest tax increase in the history of this entire Congress. It took \$120 million out of the pockets of the Social Security recipients in my district alone. So, yes, I offered a balanced budget amendment; Mr. PENNY and a lot of others voted for that balanced budget. It was not an amendment, it was a true balanced budget scored by the Congressional Budget Office. That is what we ought to be supporting on this floor. That is real deficit reduction.

Mr. Chairman, I yield to my friend on the Committee on Appropriations, the gentleman from Arizona [Mr. KOLBE].

Mr. KOLBE. I thank the gentleman for yielding to me.

Mr. Chairman, I concur with the gentleman's remarks and rise in support of the Solomon amendment, which will be considered shortly.

Mr. Chairman, for weeks we have been anticipating this day, a day which the Democratic leadership would have preferred to avoid. Why? Because their hand has been forced to respond to the drive to 218—the all important milestone in the discharge petition process.

We have watched the Democratic leadership pursue a torturous path in an attempt to derail the A-to-Z spending cut plan because—simply put—it knocks holes in their ability to control the agenda and the purse strings of the Federal Government. And just look at where it has gotten us today.

Even more astounding is what the Democratic leadership has proposed as a substitute to A to Z to provide cover for those who have not signed the discharge petition. H.R. 4600, offered up as the tough budget lion, is nothing but a sacrificial lamb. H.R. 4600 is nothing more than recycled budget process reform. It is a sham and the American public has seen through this ploy.

Instead of a bill that would allow for 56 hours of debate on specific spending cuts that would be directed toward deficit reduction, we have H.R. 4600. Recall that H.R. 4600 came before the House a year ago. It was touted to be a tough new approach to the budget process. It would enhance the current rescission authority. Yet even then it did not enhance. And its toughness could not measure up against a true-line item veto. It is recycled. It is a sham.

Unlike a real line-item veto, which will be offered as a substitute amendment later in the debate, and allows the president to cancel wasteful spending items, subject to override by two-thirds of both Houses, H.R. 4600 requires that a majority of both Houses approve any veto of appropriations items. In other words, a majority of either House can block the President's proposed spending cuts by doing nothing. And there are no penalties or disincentives for inaction. The only change to last year's bill is a stepped-up timetable for consideration. There is no question, the Solomon substitute is the real line-item veto which I will throw my support behind today.

Fortunately, there is still another option available to us today to show the America people we won't be fooled by the H.R. 4600 tac-

tic. The Stenholm-Penny-Kasich amendment has been crafted to strengthen the recycled H.R. 4600.

The objectives of this amendment are the same as the A-to-Z spending cut plan—to provide opportunities for Congress to vote on spending cuts.

The Stenholm-Penny-Kasich amendment provides the President the authority to designate some portion of the savings from a rescission or repealing targeted tax benefits to a deficit reduction account. It would expand rescission authority to targeted tax benefits as well as appropriations. The President could use expedited rescission authority any time—not just during a narrow window of opportunity. And the amendment makes it permanent not just during the 103d Congress.

Let us not let the opportunity to support tough budget reform slip away again. Support the Stenholm-Penny-Kasich amendment to H.R. 4600. And support the Solomon substitute which would provide real line-item veto authority.

It will not solve all our fiscal problems, but it will help—if the improvements are real—and these are.

Mr. SOLOMON. Mr. Chairman, I respectfully yield back the balance of my time and indicate that I have changed my mind. I am going to support the technical amendment.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from South Carolina [Mr. DERRICK].

The amendment was agreed to.

The CHAIRMAN pro tempore. It is now in order to consider amendment No. 2, printed in House Report 103-565.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. STENHOLM

Mr. STENHOLM. Mr. Chairman, pursuant to the rule, I offer an amendment in the nature of a substitute.

The CHAIRMAN pro tempore. The Clerk will designate the amendment in the nature of a substitute.

The text of the amendment in the nature of a substitute is as follows:

Amendment in the nature of a substitute offered by Mr. STENHOLM: Strike all after the enacting clause and insert the following:

SECTION 1. EXPEDITED CONSIDERATION OF CERTAIN PROPOSED RESCISSIONS AND TARGETED TAX BENEFITS.

(a) IN GENERAL.—Section 1012 of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 683) is amended to read as follows:

“EXPEDITED CONSIDERATION OF CERTAIN PROPOSED RESCISSIONS

“SEC. 1012. (a) PROPOSED RESCISSION OF BUDGET AUTHORITY OR REPEAL OF TARGETED TAX BENEFITS.—The President may propose, at the time and in the manner provided in subsection (b), the rescission of any budget authority provided in an appropriation Act or repeal of any targeted tax benefit provided in any revenue Act. Funds made available for obligation under this procedure may not be proposed for rescission again under this section.

“(b) TRANSMITTAL OF SPECIAL MESSAGE.—

"(1) The President may transmit to Congress a special message proposing to rescind amounts of budget authority or to repeal any targeted tax benefit and include with that special message a draft bill that, if enacted, would only rescind that budget authority or repeal that targeted tax benefit. That bill shall clearly identify the amount of budget authority that is proposed to be rescinded for each program, project, or activity to which that budget authority relates or the targeted tax benefit proposed to be repealed, as the case may be. It shall include a Deficit Reduction Account. The President may place in the Deficit Reduction Account an amount not to exceed the total rescissions in that bill. A targeted tax benefit may only be proposed to be repealed under this section during the 20-calendar-day period (excluding Saturdays, Sundays, and legal holidays) commencing on the day after the date of enactment of the provision proposed to be repealed.

"(2) In the case of an appropriation Act that includes accounts within the jurisdiction of more than one subcommittee of the Committee on Appropriations, the President in proposing to rescind budget authority under this section shall send a separate special message and accompanying draft bill for accounts within the jurisdiction of each such subcommittee.

"(3) Each special message shall specify, with respect to the budget authority proposed to be rescinded, the following—

"(A) the amount of budget authority which he proposes to be rescinded;

"(B) any account, department, or establishment of the Government to which such budget authority is available for obligation, and the specific project or governmental functions involved;

"(C) the reasons why the budget authority should be rescinded;

"(D) to the maximum extent practicable, the estimated fiscal, economic, and budgetary effect (including the effect on outlays and receipts in each fiscal year) of the proposed rescission; and

"(E) all facts, circumstances, and considerations relating to or bearing upon the proposed rescission and the decision to effect the proposed rescission, and to the maximum extent practicable, the estimated effect of the proposed rescission upon the objects, purposes, and programs for which the budget authority is provided.

"Each special message shall specify, with respect to the proposed repeal of targeted tax benefits, the information required by subparagraphs (C), (D), and (E), as it relates to the proposed repeal.

"(c) PROCEDURES FOR EXPEDITED CONSIDERATION.—

"(1)(A) Before the close of the second legislative day of the House of Representatives after the date of receipt of a special message transmitted to Congress under subsection (b), the majority leader or minority leader of the House of Representatives shall introduce (by request) the draft bill accompanying that special message. If the bill is not introduced as provided in the preceding sentence, then, on the third legislative day of the House of Representatives after the date of receipt of that spe-

cial message, any Member of that House may introduce the bill.

“(B) The bill shall be referred to the Committee on Appropriations or the Committee on Ways and Means of the House of Representatives, as applicable. The committee shall report the bill without substantive revision and with or without recommendation. The bill shall be reported not later than the seventh legislative day of that House after the date of receipt of that special message. If that committee fails to report the bill within that period, that committee shall be automatically discharged from consideration of the bill, and the bill shall be placed on the appropriate calendar.

“(C)(i) During consideration under this paragraph, any Member of the House of Representatives may move to strike any proposed rescission or rescissions of budget authority or any proposed repeal of a targeted tax benefit, as applicable, if supported by 49 other Members.

“(ii) It shall not be in order for a Member of the House of Representatives to move to strike any proposed rescission under clause (i) unless the amendment reduces the appropriate Deficit Reduction Account if the program, project, or account to which the proposed rescission applies was identified in the Deficit Reduction Account in the special message under subsection (b).

“(D) A vote on final passage of the bill shall be taken in the House of Representatives on or before the close of the 10th legislative day of that House after the date of the introduction of the bill in that House. If the bill is passed, the Clerk of the House of Representatives shall cause the bill to be engrossed, certified, and transmitted to the Senate within one calendar day of the day on which the bill is passed.

“(2)(A) A motion in the House of Representatives to proceed to the consideration of a bill under this section shall be highly privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

“(B) Debate in the House of Representatives on a bill under this section shall not exceed 4 hours, which shall be divided equally between those favoring and those opposing the bill. A motion further to limit debate shall not be debatable. It shall not be in order to move to recommit a bill under this section or to move to reconsider the vote by which the bill is agreed to or disagreed to.

“(C) Appeals from decisions of the Chair relating to the application of the Rules of the House of Representatives to the procedure relating to a bill under this section shall be decided without debate.

“(D) Except to the extent specifically provided in the preceding provisions of this subsection, consideration of a bill under this section shall be governed by the Rules of the House of Representatives. It shall not be in order in the House of Representatives to consider any rescission bill introduced pursuant

to the provisions of this section under a suspension of the rules or under a special rule.

"(3)(A) A bill transmitted to the Senate pursuant to paragraph (1)(D) shall be referred to its Committee on Appropriations or Committee on Finance, as applicable. That committee shall report the bill without substantive revision and with or without recommendation. The bill shall be reported not later than the seventh legislative day of the Senate after it receives the bill. A committee failing to report the bill within such period shall be automatically discharged from consideration of the bill, and the bill shall be placed upon the appropriate calendar.

"(B)(i) During consideration under this paragraph, any Member of the Senate may move to strike any proposed rescission or rescissions of budget authority or any proposed repeal of a targeted tax benefit, as applicable, if supported by 14 other Members.

"(ii) It shall not be in order for a Member of the House or Senate to move to strike any proposed rescission under clause (i) unless the amendment reduces the appropriate Deficit Reduction Account (pursuant to section 314) if the program, project, or account to which the proposed rescission applies was identified in the Deficit Reduction Account in the special message under subsection (b).

"(4)(A) A motion in the Senate to proceed to the consideration of a bill under this section shall be privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(B) Debate in the Senate on a bill under this section, and all debatable motions and appeals in connection therewith (including debate pursuant to subparagraph (C)), shall not exceed 10 hours. The time shall be equally divided between, and controlled by, the majority leader and the minority leader or their designees.

"(C) Debate in the Senate on any debatable motion or appeal in connection with a bill under this section shall be limited to not more than 1 hour, to be equally divided between, and controlled by, the mover and the manager of the bill, except that in the event the manager of the bill is in favor of any such motion or appeal, the time in opposition thereto, shall be controlled by the minority leader or his designee. Such leaders, or either of them, may, from time under their control on the passage of a bill, allot additional time to any Senator during the consideration of any debatable motion or appeal.

"(D) A motion in the Senate to further limit debate on a bill under this section is not debatable. A motion to recommit a bill under this section is not in order.

"(d) AMENDMENTS AND DIVISIONS PROHIBITED.—Except as otherwise provided by this section, no amendment to a bill considered under this section shall be in order in either the House of Representatives or the Senate. It shall not be in order to demand a division of the question in the House of Representatives (or in a Committee of the Whole) or in the Senate. No motion to suspend

the application of this subsection shall be in order in either House, nor shall it be in order in either House to suspend the application of this subsection by unanimous consent.

“(e) REQUIREMENT TO MAKE AVAILABLE FOR OBLIGATION.—(1) Any amount of budget authority proposed to be rescinded in a special message transmitted to Congress under subsection (b) shall be made available for obligation on the day after the date on which either House rejects the bill transmitted with that special message.

“(2) Any targeted tax benefit proposed to be repealed under this section as set forth in a special message transmitted to Congress under subsection (b) shall be deemed repealed unless, during the period described in that subsection, either House rejects the bill transmitted with that special message.

“(f) DEFINITIONS.—For purposes of this section—

“(1) the term ‘appropriation Act’ means any general or special appropriation Act, and any Act or joint resolution making supplemental, deficiency, or continuing appropriations;

“(2) the term ‘legislative day’ means, with respect to either House of Congress, any day of session; and

“(3) The term ‘targeted tax benefit’ means any provision which has the practical effect of providing a benefit in the form of a differential treatment to a particular taxpayer or a limited class of taxpayers, whether or not such provision is limited by its terms to a particular taxpayer or a class of taxpayers. Such term does not include any benefit provided to a class of taxpayers distinguished on the basis of general demographic conditions such as income, number of dependents, or marital status.”.

(b) EXERCISE OF RULEMAKING POWERS.—Section 904 of the Congressional Budget Act of 1974 (2 U.S.C. 621 note) is amended—

(1) in subsection (a), by striking “and 1017” and inserting “1012, and 1017”; and

(2) in subsection (d), by striking “section 1017” and inserting “sections 1012 and 1017”.

(c) CONFORMING AMENDMENTS.—

(1) Section 1011 of the Congressional Budget Act of 1974 (2 U.S.C. 682(5)) is amended by repealing paragraphs (3) and (5) and by redesignating paragraph (4) as paragraph (3).

(2) Section 1014 of such Act (2 U.S.C. 685) is amended—

(A) in subsection (b)(1), by striking “or the reservation”; and

(B) in subsection (e)(1), by striking “or a reservation” and by striking “or each such reservation”.

(3) Section 1015(a) of such Act (2 U.S.C. 686) is amended by striking “is to establish a reserve or”, by striking “the establishment of such a reserve or”, and by striking “reserve or” each other place it appears.

(4) Section 1017 of such Act (2 U.S.C. 687) is amended—

(A) in subsection (a), by striking “rescission bill introduced with respect to a special message or”; and

(B) in subsection (b)(1), by striking “rescission bill or”, by striking “bill or” the second place it appears, by striking “rescission bill with respect to the same special message or”, and by striking “, and the case may be,”;

(C) in subsection (b)(2), by striking "bill or" each place it appears;

(D) in subsection (c), by striking "rescission" each place it appears and by striking "bill or" each place it appears;

(E) in subsection (d)(1), by striking "rescission bill or" and by striking ", and all amendments thereto (in the case of a rescission bill)";

(F) in subsection (d)(2)—

(i) by striking the first sentence;

(ii) by amending the second sentence to read as follows: "Debate on any debatable motion or appeal in connection with an impoundment resolution shall be limited to 1 hour, to be equally divided between, and controlled by, the mover and the manager of the resolution, except that in the event that the manager of the resolution is in favor of any such motion or appeal, the time in opposition thereto shall be controlled by the minority leader or his designee.";

(iii) by striking the third sentence; and

(iv) in the fourth sentence, by striking "rescission bill or" and by striking "amendment, debatable motion," and by inserting "debatable motion";

(G) in paragraph (d)(3), by striking the second and third sentences; and

(H) by striking paragraphs (4), (5), (6), and (7) of paragraph (d).

(d) CLERICAL AMENDMENTS.—The item relating to section 1012 in the table of sections for subpart B of title X of the Congressional Budget and Impoundment Control Act of 1974 is amended to read as follows:

"Sec. 1012. Expedited consideration of certain proposed rescissions and targeted tax benefits."

The CHAIRMAN pro tempore. Pursuant to the rule, the gentleman from Texas [Mr. STENHOLM] will be recognized for 15 minutes, and a Member opposed will be recognized for 15 minutes.

Mr. DERRICK. Mr. Chairman, I rise in opposition to the amendment in the nature of a substitute.

The CHAIRMAN pro tempore. The gentleman from South Carolina [Mr. DERRICK] will be recognized for 15 minutes in opposition.

The Chair recognizes the gentleman from Texas [Mr. STENHOLM].

Mr. STENHOLM. Mr. Chairman, I yield myself 4 minutes.

Mr. Chairman, I am very pleased to come to the floor with TIM PENNY and JOHN KASICH to offer this substitute amendment to H.R. 4600, the Expedited Rescissions Act of 1994.

Our amendment would allow the President to propose to cut or eliminate individual spending items in appropriations bills throughout the year. The President could place some or all of the savings from proposed rescissions in a deficit reduction account. In addition, the President would be able to propose to repeal targeted tax breaks which benefit a particular taxpayer or class of taxpayers within 10 days of signing a tax bill.

Within 10 legislative days after the President sends a rescission package to Congress, a vote shall be taken on the rescission bill. The bill may not be amended on the floor, except that 50 House

Members can request a vote on a motion to strike an individual rescission from the package. If a majority of Members voted in favor of the individual item, it would be struck from the bill. If approved by a simple majority of the House, the bill would be sent to the Senate for consideration under the same expedited procedure.

Any appropriations or tax item that was submitted by the President would be in effect suspended until Congress acts on the President's package. If Congress avoids a vote, the funds would continue to be withheld from obligation or the tax provision would continue to be deemed to be repealed. Unlike current law, Congress could not force the President to spend the money by ignoring the rescissions. If a simple majority in either the House or Senate defeats a rescission proposal, the funds for programs covered by the proposal would be released for obligation in accordance with the previously enacted appropriation, or the tax provision would take effect. If a bill rescinding spending or repealing tax benefits is approved by the House and Senate, it would be sent to the President for his signature.

While I believe that the base bill introduced by JOHN SPRATT is a clear improvement over current law, and I commend my friend from South Carolina for the leadership he has shown on this issue, I believe there are several areas in which this legislation can be improved. It is in this spirit the three of us are offering our substitute. Our amendment would improve the base text in several ways:

First, the President would have the option of earmarking savings from proposed rescissions to deficit reduction in anticipation of lockbox legislation which this body will consider later this year. Under the base bill, the savings from rescissions automatically would be available to be spent on other programs;

Second, the President would be able to single out narrowly drawn provisions in tax bills which are added to tax bills at the behest of large corporations or wealthy taxpayers. Congress would have to vote on these rifle shot tax provisions on their merits.

Third, the President would be able to submit a rescission package for expedited consideration at any point in the year. The base bill would restrict the President to submitting rescissions during a limited window after signing an appropriations bill.

Fourth, the new expedited rescission authority would be established permanently instead of being limited to the few remaining months of the 103d Congress as the base bill would do.

Fifth, if 50 members of the House or 15 members of the Senate request a separate vote on an individual item, they would have the opportunity to convince a majority of the House to strike that item project from the package before the vote on the overall package. Under the base bill, Members could be placed in a position of being compelled to oppose the entire package because of one item included in the package even though they supported virtually all rescissions in the package.

Sixth, our substitute would not lay out a cumbersome new procedure for consideration of an Appropriations Committee alternative as the base bill does. Contrary to some suggestions, our substitute does not prevent Congress from considering an alternative rescission package.

Mr. Chairman, this amendment will give Congress and the President an additional tool for fiscal responsibility and improve accountability in taxing and spending legislation without disrupting the constitutional balance of power. I urge the House to vote for the Stenholm-Penny-Kasich expedited rescission substitute.

Mr. Chairman, I offer a series of questions and answers with respect to our amendment:

QUESTIONS AND ANSWERS—STENHOLM-PENNY-KASICH SUBSTITUTE TO H.R. 4600

How does the substitute differ from legislation which was passed by the House last year?

The Stenholm-Penny-Kasich substitute makes several changes to the legislation passed by the House last year to respond to concerns raised by many members and significantly strengthen the legislation. The President would be able to single out newly enacted targeted tax benefits as well as appropriated items for individual votes. Unlike the legislation passed last year, which required the President to submit rescissions within a three-day window after signing an appropriations bill, the President would be able to submit a rescission package for expedited consideration at any point in the year. The President would have the option of earmarking savings from proposed rescissions to deficit reduction in anticipation of lockbox legislation, which no other expedited rescission or line-item veto proposal would permit. The new expedited rescission authority would be established permanently instead of being sunsetted after two years. Members would have the ability to obtain separate votes on individual items in a rescission package that have significant support. The substitute explicitly prevents the President's rescissions from being considered under a special rule which would waive the requirements of the section. Finally, the prerogative of the Appropriations Committee to move their own rescission bill would be preserved without creating a cumbersome new procedure.

How is the procedure under the Stenholm-Penny-Kasich expedited rescission legislation different from the existing procedure for considering Presidential rescissions under Title X of the Budget Control and Impoundment Act?

Under Title X of the Budget Control and Impoundment Act, the President may propose to rescind all or part of any item at any time during the fiscal year. If Congress does not take action on the proposed rescission within 45 days of continuous session, the funds must be released for obligation. Congress routinely ignores Presidential rescissions. The discharge procedure for forcing a floor vote on Presidential rescissions is cumbersome and has never been used. Most Presidential rescission messages have died without a floor vote.

Congress has approved just 34.5% of the individual rescissions proposed by the President since 1974 (350 of 1012 rescissions submitted), representing slightly more than 30% of the dollar volume of proposed rescissions. Nearly a third of the Presidential rescissions approved came in 1981. Excluding 1981, Congress has approved less than 20% of the dollar volume in Presidential rescissions. Although Congress has initiated \$65 billion in rescissions on

its own, it has ignored nearly \$48 billion in Presidential rescissions submitted under Title X of the Budget Control and Impoundment Act without any vote at all on the merits of the rescissions.

In 1992, the threat that there would be an attempt to utilize the Title X discharge procedure to force votes on 128 rescissions submitted by President Bush provided the impetus for the Appropriations Committee to report a bill rescinding more than \$8 billion. However, this was an exception. Most rescission messages are ignored. The Stenholm-Penny-Kasich substitute would change that and force Congress to react to Presidential messages and vote on them, increasing the likelihood that unnecessary spending would be eliminated.

Could Congress thwart the provisions of the Stenholm-Penny-Kasich expedited rescission legislation by reporting a rule that waives the requirements of this proposal?

No. The substitute specifically states that "It shall not be in order in the House of Representatives to consider any rescission bill introduced pursuant to the provisions of this section . . . under a special rule." Furthermore, OMB could continue to withhold the funds from obligation until the President's plan was voted on as required by this legislation regardless of any attempts by Congress to waive its internal rules. If Congress used its Constitutional authority to set its own rules to avoid a vote on the President's rescissions, it would give the President the ability to indefinitely impound the funds.

How does expedited rescission legislation ensure that a Presidential rescission is voted on by Congress?

Expedited rescission legislation establishes several procedural requirements ensuring that Congress cannot simply ignore a rescission message. A rescission bill would be introduced by request by either the Majority or Minority Leader. If the Appropriations Committee does not report out the rescission bill as required within ten days, the bill is automatically discharged from the committee and placed on the appropriate calendar. Once the bill is either reported by or discharged from the Appropriations Committee, any individual member may make a highly privileged motion to proceed to consideration of the bill. Although a motion to adjourn would take precedence, the House could not prevent a vote on a rescission message by adjourning because only legislative days are counted toward the ten day clock. By providing for a highly privileged motion to proceed to consideration and limiting debate and preventing amendments to a rescission bill. This proposal ensures that there will be a vote on a rescission bill so long as one member is willing to stand up on the House floor and make a motion to proceed.

The substitute includes language to discourage the House from avoiding a vote on the President's package, by making the release of funds by OMB contingent on Congress voting on and defeating the President's package.

Under current law, OMB withholds funds from apportionment until Congress acts on a rescission message. Funds included in a rescission message would be frozen in the pipeline until Congress either votes to rescind them or to release them for obligation. The substitute provides that the funds must be released for obligation upon defeat of the President's rescission bill in either House. This

is different from the requirement in Section 1012 of the Impoundment Control Act of 1974, which states "Any amount of budget authority proposed to be rescinded . . . shall be made available for obligation, unless, within the prescribed 45 day period, the Congress has completed action on a rescission bill rescinding all or part of the amount proposed to be rescinded." By specifically providing that the funds would be released upon defeat of the President's package and not providing for any other circumstances in which OMB must release the funds, the language of the Stenholm-Penny-Kasich substitute clearly provides that OMB will be required to release the funds only when Congress votes on and rejects the rescission bill.

Similarly, the amendment provides that any tax benefits proposed to be repealed be "deemed to have been repealed unless . . . either House rejects the bill transmitted with that special message.

How would the motion to strike individual items from a package of rescissions work?

A member would be able to make a motion to strike an individual item in the rescission bill if 49 members support the motion. This procedure would be similar to existing procedures to call for recorded votes or the procedure for discharging rescission bills under Title X of the Impoundment Control Act in which the members supporting the motion would stand and be counted. If the requisite number of members supported a motion to strike, the motion would be debated under the five minute rule and the House would vote on the motion. If the motion was supported by a majority of members, the item would be struck from the bill. The House would vote on final passage of the rescission bill after disposing of any motion to strike.

If 50 members feel strongly about an individual item to coordinate the actions necessary to obtain a motion to strike, they deserve to have the opportunity to make their case to the full House. They would still have to convince a majority of the House that their project was justified.

Wouldn't the motion to strike deprive the President of a vote on his rescissions?

No. Congress would vote on the merits of each rescission either as part of the overall package or on a motion to strike. While there might not be one vote on the entire package if a motion to strike succeeded, Congress would have voted on the merits of individual rescissions when it voted on the motions to strike items from the package.

The motion to strike increases the chance of passing rescissions submitted by the President by providing a safety valve to take "killer" items out of a rescission package to avoid the entire package from being defeated because of one item with strong support. If there is a strong core of support within Congress for an individual item, there would be a high likelihood that the supporters of that item could form an alliance to defeat the entire bill. Although the President would presumably make political judgements to avoid including items that would sink the entire package, the administration will not always be aware of all traps that may lie with an individual spending program or tax provision. This safety valve

would prevent a political miscalculation from sinking the entire bill.

What types of tax provisions would be subject to the new rescission process?

The provision for expedited consideration of proposal to repeal tax items would be restricted to targeted tax benefits. "Targeted tax benefits" are defined as provisions in a tax bill which provide benefits to a particular taxpayer or limited class of taxpayer. The rescission authority would apply to narrowly drawn tax items, the so-called "tax pork", which are slipped into tax bills to benefit special interests. It will not apply to tax provisions based on general demographic conditions or marital status, such as the earned income tax credit or the personal exemption.

Wouldn't the ability to repeal tax items create uncertainty in the tax code?

No. The substitute provides for swift consideration of proposals to repeal tax provisions so that taxpayers would know the final disposition of any tax provision within a reasonable period of time following the passage of a tax bill. The President must submit a proposal to repeal a tax provision within ten business days after signing a tax bill. Both Houses of Congress would be required to act within twenty legislative days.

Could the President propose to rewrite tax provisions?

No. The President would only be able to propose legislative language necessary to repeal individual tax provisions for expedited consideration. Legislation submitted by the President to rewrite a tax provision would not be subject to the expedited procedures of this amendment.

Doesn't this legislation constitute an unconstitutional legislative veto?

No. This legislation was carefully crafted to comply with the Constitutional requirements established by the courts by *I.N.S. v. Chada*, 462 U.S. 919 (1983), the case that declared legislative veto provisions unconstitutional. Legislative vetoes allow one or both Houses of Congress (or a Congressional committee) to stop executive actions by passing a resolution that is not presented to the President. The Chada court held that legislative vetoes are unconstitutional because they allow Congress to exercise legislative power without complying with Constitutional requirements for bicameral passage of legislation and presentment of legislation to the President for signature or veto. For example, allowing the House (or Congress as a whole) to block a Presidential rescission by passing a motion of disapproval without sending the bill to the President for signature or veto would violate the Chada test. This substitute meets the Chada tests of bicameralism and presentment by requiring that both chambers of Congress pass a motion enacting the rescission and send it to the President for signature or veto, before the funds are rescinded. The substitute does not provide for legislative review of a preceding executive action, but expedited consideration of an executive proposal. Thus, it represents a so-called "report and wait" provision that the court approved in *Sibbach v. Wilson and Co.*, 312 U.S. 1 (1941) and reaffirmed in *Chada*.

If a majority of Congress has voted for items as part of an appropriations or tax bill, wouldn't the same majority vote to preserve the items when they were rescinded?

Just as President's often sign appropriations bill (or other bills for that matter) that includes individual items that he does not support, Congress often passes appropriations bills without passing judgement on individual items. Expedited rescission legislation would force the President and Congress to examine spending items on their individual merit and not as part of an overall package. Many items included in omnibus appropriations bill would not be able to receive majority support in Congress if they were forced to stand on their own individual merits. Members who voted for an appropriations or tax bill may be willing to vote to eliminate individual items that had been in the omnibus bill.

Isn't requiring an additional vote on items that have already been approved by Congress a waste of time?

As was stated above, the fact that an item was included in an omnibus appropriations or tax bill does not necessary imply that a majority of Congress supported that individual item. For example, when Congress passed the Agricultural Appropriations Bill in 1990, the majority of the members did not endorse spending on Lawrence Welk's home. Requiring a second vote on individual items included in an omnibus appropriation bill is not an unreasonable response to realities of the legislative process.

Doesn't providing the President expedited rescission authority alter the balance of power between Congress and the President?

No. The approach of expedited rescission legislation strikes a balance between protecting Congress' control of the purse and providing the accountability in the appropriations process. Unlike line-item veto legislation, this substitute would preserve the Constitutional power of Congressional majorities to control spending decisions. Expedited rescission authority increases the accountability of both sides, but does not give the President undue leverage in the appropriations process because funding for a program will continue if a majority of either House disagree with him.

Since the rescission process would only apply to the relatively small amount of spending in discretionary programs and a limited number of small tax breaks, isn't this just a political gimmick that won't have a significant impact on the deficit?

The authors of this proposal have never claimed that this proposal would balance the budget or even make a substantial dent in the budget deficit. However, it will be a useful tool in helping the President and Congress identify and eliminate as much as \$10 billion in wasteful or low-priority spending each year. Many of the special interest tax provisions that would be subject to expedited rescission have a considerable cost. It will help ensure that the federal government spends its scarce resources in the most effective way possible and does not divert resources to low-priority programs. Perhaps most importantly, by increasing the accountability of the budget process, it will help restore some credibility to the federal government's handling of taxpayer money with the public. This credibility is necessary if Congress and the President are to gain public support for the tough choices of cutting benefits or raising taxes necessary to balance the budget.

Would this proposal apply to entitlement programs funded through the appropriations process such as unemployment insurance and food stamps?

No. Although other versions of expedited rescission legislation would have allowed a President to propose to rescind spending for entitlement programs funded through the regular appropriations bills (as is the case with unemployment insurance and other income support programs), this was changed to clarify that the expedited rescission process does not apply to any entitlement programs.

Doesn't expedited rescission violate the legislative prerogative by requiring action under a specific timetable and preventing amendments to a rescission bill?

The expedited procedure for consideration of rescission messages in this substitute is similar to fast track procedures for trade agreements or for base closure reports, which have worked relatively well. In fact, the scope of the legislation that would be subject to expedited consideration is much more confined under this procedure than in either trade agreements or base closings.

Wouldn't allowing the President to submit rescissions throughout the year give the President undue ability to dictate the legislative calendar?

The substitute preserves the flexibility of Congressional leaders to develop the legislative schedule while ensuring that the President's package is voted on in a timely fashion. It provides that the time allowed for consideration of the bill before a vote is required be counted in legislative days instead of calendar days, ensuring that the House will be in session for ten days after receiving the message before a vote is required. The House could vote on the package at any point within the ten legislative days for consideration.

Could the President propose to lower the spending level of an item, or would he have to eliminate the entire item?

The President could propose to rescind the budget authority for all or part of any program in an appropriations bill. Consequently the President could, if he so chose, submit a rescission that simply lowered the budget authority for a certain program without eliminating it entirely. In comparison, most line-item veto proposals require the President to propose to eliminate an entire line item in an appropriations bill.

Would this proposal allow the President to strike legislative language from appropriations bills?

No. It specifically allows a President to rescind only budget authority provided in an appropriations act and requires that the draft bill submitted by the President have only the effect of canceling budget authority. Legislative language, including limitation riders, would not be subject to this procedure.

Could the President propose to increase budget authority for a program?

No. The substitute specifically provides that the President may propose to eliminate or reduce budget authority provided in an appropriations bill. It does not allow the President to propose an increase in budget authority.

What happens if the President submits a rescission message after Congress recesses for the year?

The House has ten legislative days to consider the rescission message. Since the time allowed for consideration of the rescission message only counts days that Congress is in session, Congress would not be required to vote on a rescission message until after it returns from recess. However, the funds would not be released for apportionment for proposed rescissions until Congress votes on and defeats a Presidential rescission bill. Congressional leaders would have to decide whether to reconvene Congress to consider the rescission message or to leave the message pending while Congress is in recess. Congress could delay adjourning sine die until the time period in which the President could submit a rescission has expired so that it can reconvene to consider a rescission message if it is submitted after Congress completes all other business. If the funds included in a rescission message are considered by Congress to be important, Congress would have to return to session to vote on the message. If a rescission message is submitted after the first session of the 103rd Congress has adjourned for the year, or if Congress adjourns before the period for consideration of a rescission message expires, the rescission message would remain pending at the beginning of the second session of the 103rd Congress. The House would still be required to vote on the rescission message by the tenth legislative day after the rescission package was submitted.

AMENDMENT OFFERED BY MR. SOLOMON AS A SUBSTITUTE FOR THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. STENHOLM

Mr. SOLOMON. Mr. Chairman, pursuant to the rule, I offer an amendment as a substitute for the amendment in the nature of a substitute offered by Mr. STENHOLM.

The CHAIRMAN pro tempore. The Clerk will designate the amendment offered as a substitute.

The text of the amendment offered by Mr. SOLOMON to the amendment in the nature of a substitute offered by Mr. STENHOLM is as follows:

Amendment offered by Mr. SOLOMON as a substitute for the amendment in the nature of a substitute offered by Mr. STENHOLM: In lieu of the matter proposed to be inserted by the amendment in the nature of a substitute by Mr. STENHOLM, insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "The Enhanced Rescission/Receipts Act of 1994".

SEC. 2. LEGISLATIVE LINE-ITEM VETO RESCISSION AUTHORITY.

(a) IN GENERAL.—Notwithstanding the provisions of part B of title X of the Congressional Budget and Impoundment Control Act of 1974, and subject to the provisions of this section, the President may rescind all or part of any discretionary budget authority or veto any targeted tax benefit within any revenue bill which is subject to the terms of this Act if the President—

(1) determines that—

(A) such recession or veto would help reduce the Federal budget deficit;

(B) such rescission or veto will not impair any essential Government functions; and

(C) such rescission or veto will not harm the national interest; and

(2) notifies the Congress of such rescission or veto by a special message not later than twenty calendar days (not including Saturdays, Sundays, or holidays) after the date of enactment of a regular or supplemental appropriation act or a joint resolution making continuing appropriations providing such budget authority or a revenue bill containing a targeted tax benefit.

The President shall submit a separate rescission message for each appropriation bill and for each revenue bill under this paragraph.

SEC. 3. RESCISSION EFFECTIVE UNLESS DISAPPROVED.

(a)(1) Any amount of budget authority rescinded under this Act as set forth in a special message by the President shall be deemed canceled unless, during the period described in subsection (b), a rescission/receipts disapproval bill making available all of the amount rescinded is enacted into law.

(2) Any provision of law vetoed under this Act as set forth in a special message by the President shall be deemed repealed unless, during the period described in subsection (b), a rescission/receipts disapproval bill restoring that provision is enacted into law.

(b) The period referred to in subsection (a) is—

(1) a congressional review period of twenty calendar days of session during which Congress must complete action on the rescission/receipts disapproval bill and present such bill to the President for approval or disapproval;

(2) after the period provided in paragraph (1), an additional ten days (not including Sundays) during which the President may exercise his authority to sign or veto the rescission/receipts disapproval bill; and

(3) if the President vetoes the rescission/receipts disapproval bill during the period provided in paragraph (2), an additional five calendar days of session after the date of the veto.

(c) If a special message is transmitted by the President under this Act and the last session of the Congress adjourns sine die before the expiration of the period described in subsection (b), the rescission or veto, as the case may be, shall not take effect. The message shall be deemed to have been retransmitted on the first day of the succeeding Congress and the review period referred to in subsection (b) (with respect to such message) shall run beginning after such first day.

SEC. 4. DEFINITIONS.

As used in this Act:

(1) The term “rescission/receipts disapproval bill” means a bill or joint resolution which—

(A) only disapproves a rescission of budget authority, in whole, rescinded, or

(B) only disapproves a veto of any provision of law that would decrease receipts,

in a special message transmitted by the President under this Act.

(2) The term "calendar days of session" shall mean only those days on which both Houses of Congress are in session.

(3) The term "targeted tax benefit" means any provision which has the practical effect of providing a benefit in the form of a differential treatment to a particular taxpayer or a limited class of taxpayers, whether or not such provision is limited by its terms to a particular taxpayer or a class of taxpayers. Such term does not include any benefit provided to a class of taxpayers distinguished on the basis of general demographic conditions such as income, number of dependents, or marital status.

SEC. 5. CONGRESSIONAL CONSIDERATION OF LEGISLATIVE LINE ITEM VETO RESCISSIONS.

(a) **PRESIDENTIAL SPECIAL MESSAGE.**—Whenever the President rescinds any budget authority as provided in this Act or vetoes any provision of law as provided in this Act, the President shall transmit to both Houses of Congress a special message specifying—

(1) the amount of budget authority rescinded or the provision vetoed;

(2) any account, department, or establishment of the Government to which such budget authority is available for obligation, and the specific project or governmental functions involved;

(3) the reasons and justifications for the determination to rescind budget authority or veto any provision pursuant to this Act;

(4) to the maximum extent practicable, the estimated fiscal, economic, and budgetary effect of the rescission or veto; and

(5) all factions, circumstances, and considerations relating to or bearing upon the rescission or veto and the decision to effect the rescission or veto, and to the maximum extent practicable, the estimated effect of the rescission upon the objects, purposes, and programs for which the budget authority is provided.

(b) **TRANSMISSION OF MESSAGES TO HOUSE AND SENATE.**—

(1) Each special message transmitted under this Act shall be transmitted to the House of Representatives and the Senate on the same day, and shall be delivered to the Clerk of the House of Representatives if the House is not in session, and to the Secretary of the Senate if the Senate is not in session. Each special message so transmitted shall be referred to the appropriate committees of the House of Representatives and the Senate. Each such message shall be printed as a document of each House.

(2) Any special message transmitted under this Act shall be printed in the first issue of the Federal Register published after such transmittal.

(c) **REFERRAL OF RESCISSION/RECEIPTS DISAPPROVAL BILLS.**—Any rescission/receipts disapproval bill introduced with respect to a special message shall be referred to the appropriate committees of the House of Representatives or the Senate, as the case may be.

(d) **CONSIDERATION IN THE SENATE.**—

(1) Any rescission/receipts disapproval bill received in the Senate from the House shall be considered in the Senate pursuant to the provisions of this Act.

(2) Debate in the Senate on any rescission/receipts disapproval bill and debatable motions and appeals in connection therewith, shall be limited to not more than ten hours. The time shall be equally divided between, and controlled by, the majority leader and the minority leader on their designees.

(3) Debate in the Senate on any debatable motions or appeal in connection with such bill shall be limited to one hour, to be equally divided between, and controlled by the mover and the manager of the bill, except that in the event the manager of the bill is in favor of any such motion or appeal, the time in opposition thereto shall be controlled by the minority leader or his designee. Such leaders, or either of them, may, from the time under their control on the passage of the bill, allot additional time to any Senator during the consideration of any debatable motion or appeal.

(4) A motion to further limit debate is not debatable. A motion to recommit (except a motion to recommit with instructions to report back within a specified number of days not to exceed one, not counting any day on which the Senate is not in session) is not in order.

(e) POINTS OF ORDER.—

(1) It shall not be in order in the Senate or the House of Representatives to consider any rescission/receipts disapproval bill that relates to any matter other than the rescission of budget authority or veto of the provision of law transmitted by the President under this Act.

(2) it shall not be in order in the Senate or the House of Representatives to consider any amendment to a rescission/receipts disapproval bill.

(3) Paragraphs (1) and (2) may be waived or suspended in the Senate only by a vote of three-fifths of the members duly chosen and sworn.

The CHAIRMAN pro tempore. The gentleman from New York will be recognized for 15 minutes, and a Member opposed will be recognized for 15 minutes.

PARLIAMENTARY INQUIRY

Mr. SOLOMON. Mr. Chairman, I have a parliamentary inquiry. The CHAIRMAN pro tempore. The gentleman will state it.

Mr. SOLOMON. Mr. Chairman, I understand the gentleman from South Carolina [Mr. DERRICK], was recognized in opposition to the Stenholm amendment. Who is recognized in opposition to my amendment offered as a substitute for the amendment?

The CHAIRMAN pro tempore. The Chair is about to inquire.

Mr. SPRATT. Mr. Chairman, I rise in opposition to the Solomon amendment and Mr. DERRICK is willing to rise in opposition to the Solomon amendment. We will divide the time or we will share it.

The CHAIRMAN. The gentleman from South Carolina [Mr. DERRICK] has time in opposition to the amendment offered by the gentleman from Texas [Mr. STENHOLM]. He may also be assigned the time in opposition to the amendment offered by the gentleman from New York [Mr. SOLOMON].

Mr. DERRICK. Mr. Chairman, I rise in opposition to the Solomon amendment as well.

The CHAIRMAN. The gentleman from South Carolina rises in opposition to the amendment offered by the gentleman from New York [Mr. SOLOMON].

Mr. SOLOMON. Everybody is so hesitant to rise in opposition to my amendment. That is nice.

The CHAIRMAN. Therefore, the gentleman from New York [Mr. SOLOMON] has 15 minutes in support of his amendment. The gentleman from South Carolina [Mr. DERRICK] has 15 minutes in opposition to the amendment offered by the gentleman from New York [Mr. SOLOMON]. In addition, the gentleman from South Carolina [Mr. DERRICK] still has the time in opposition to the amendment offered by the gentleman from Texas [Mr. STENHOLM], and Mr. STENHOLM has 11 minutes remaining to him in support of his amendment.

Mr. SOLOMON. Would the gentleman from South Carolina reserve his time and allow me to make an opening statement in the time that he has remaining in opposition to both of our amendments?

Mr. DERRICK. Yes, Mr. Chairman, that is fine.

The CHAIRMAN. Does the gentleman from South Carolina yield time to the gentleman from New York?

Mr. SOLOMON. No, Mr. Chairman. He reserves his time.

Mr. DERRICK. Mr. Chairman, I reserve my time. Let the gentleman from New York [Mr. SOLOMON] proceed.

The CHAIRMAN. The gentleman from South Carolina [Mr. DERRICK] reserves his time. Therefore, the gentleman from New York [Mr. SOLOMON] on his own time will be recognized for whatever time he designates within 15 minutes.

Mr. SOLOMON. I appreciate having this all straightened out, Mr. Chairman.

Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I offer the Solomon substitute for the Stenholm amendment made in order pursuant to the rule.

Mr. Chairman, the amendment I have offered is quite simple and yet fundamentally different from either H.R. 4600 or the Stenholm substitute. This is the real line-item veto. What it says is that a President's cancellation of a spending item or a special interest tax break will take effect unless it is disapproved by a majority of both Houses of Congress within 20 days.

Since the President would likely veto a disapproval bill, it would then require two-thirds of both Houses, under the Constitution, to override the President's veto and force the money to be spent or the tax break to take effect.

Mr. Chairman, that's the kind of line-item veto most Governors have. It is what President Clinton said he wanted during the 1992 campaign, though he has since bought off on these watered-down expedited rescission bills.

We all know that it is not enough to require that both Houses of Congress approve the President's proposed cuts in wasteful spending, since it is the same majority that log-rolled those pork-barrel projects down to the White House in the first place.

If the President's proposals are meritorious, we should be willing to say that they will stick unless a supermajority of Congress is willing to override him.

Mr. Chairman, public support for the real line-item veto has always been over 60 percent. The people understand this issue. They've seen it work in their own States. They've seen how we sometimes lard these spending bills with special projects that don't have merit but are purely political pork.

Mr. Chairman, I don't think anyone has suggested that the line-item veto is the total answer to our deficit problem. But it would certainly contribute to reducing that deficit.

In the first place, we would be more careful about putting things in appropriations bills that we know don't belong there. We wouldn't want to be embarrassed by having the President single them out for a line-item veto.

In the second place, even when we do slip them in, we know that the chances are very slim they will survive this tough process that will require that they repass by a two-thirds vote of both Houses.

As Members have testified of their own State experiences, this is not a power the Executive abuses. It is used frugally and wisely and selectively. But it is a useful fiscal tool in discouraging and restraining wasteful spending to begin with, and in extracting it if need be.

Mr. Chairman, before I close, I want to pay tribute to our Republican leader, BOB MICHEL, whose bill, H.R. 493, this substitute is based on. It was he who extended this veto concept and expedited process into the area of special interest tax breaks, and I think that is a very valuable contribution.

And let me hasten to add this is a bipartisan substitute. It got the votes of 33 Democrats last year and I hope it will get even more today.

I am especially grateful to the leadership of JIM COOPER, JIMMY HAYES, GARY CONDIT, and BILLY TAUZIN for sponsoring this amendment.

On our side we again have the strong leadership on the line-item veto from three outstanding freshmen: MIKE CASTLE, PETER BLUTE, and JACK QUINN.

I strongly urge my colleagues to vote for this only true line-item veto we will have before us this year. Let's start to do things right around here and give the President special authority in partnership with the Congress to curb wasteful spending. Vote "yes" on the Solomon line-item veto substitute.

Mr. HUTTO. Mr. Chairman, will the gentleman yield?

Mr. SOLOMON. I yield to the gentleman from Florida.

Mr. HUTTO. Mr. Chairman, as the gentleman knows, he and I often vote together, and we believe in doing something about the deficit. But I am on the other side of this issue. I am surprised that the gentleman feels that we can turn the Government over to the bureaucracy of the OMB instead of letting the Congress do this. And, as the gentleman knows, we have had, through the years we have had, rescissions, but the Committee on Appropriations has not seen fit to bring it. What we are trying to do with the enhanced rescission is to make sure it comes.

Mr. SOLOMON. Mr. Chairman, let me reclaim my time because I have deep respect for my great friend who is retiring. I am going to miss him dearly. He is wrong on this issue, I say respectfully.

Mr. Chairman, I reserve the balance of my time.

Mr. DERRICK. Mr. Chairman, I yield myself 5 minutes.

Mr. SOLOMON. Mr. Chairman, would the gentleman from South Carolina [Mr. DERRICK] be good enough to yield a little time to the gentleman from Florida [Mr. HUTTO]?

Mr. DERRICK. Mr. Chairman, I yield 1 minute to the gentleman from Florida [Mr. HUTTO].

Mr. HUTTO. Mr. Chairman, getting back to what I was saying a while ago, I believe that, if we had the line item veto that is being talked about, we would have constant conflict between the executive and legislative branches. I think that we ought to rule in this House and this Congress, and, if we have enhanced rescission where the Committee on Appropriations has to bring these rescissions here, we can vote on it, simple majority, and take care of it.

So, I just want to say to the gentleman that I hope we do not turn our government over to the bureaucracy.

Mr. DERRICK. Mr. Chairman, the Solomon amendment does not improve the bill, and Members ought to reject it for one simple reason: the amendment would enable a one-third-plus-one minority in either House to join with a President to dictate the fiscal priorities of this country.

Under this amendment, a President could within 20 days of signing a revenue or tax bill, propose rescissions of budget authority or the repeal of targeted tax benefits, and they would take effect permanently unless Congress voted to disapprove them within a specified time. Since a President would veto any bill to disapprove his proposals, for Congress' priorities to prevail would require a two-thirds vote in both Houses. Conversely, for the President to prevail, he need convince only one-third plus one of either House to sustain his veto.

Mr. Chairman, the principle which underlies our democratic system of government is majority rule. I do not believe it wise for Congress to create a rescission process in which a President, with the support of only 34 Senators or 146 Representatives, could dictate fiscal or tax policy, on a line-by-line basis, to majorities in both the House and Senate. We should not tilt the balance of the power of the purse so dramatically in the President's favor, no matter who he is or what political party he belongs to.

What reason have we to believe the President's fiscal priorities are inherently better than ours? What reason have we to believe the Executive branch institutionally favors less spending than Congress? None. In fact, there is considerable evidence to the contrary.

Since 1945 Congress has appropriated billions less than the various Presidents have requested. Moreover, since 1974 Congress has actually rescinded more spending than the Presidents have proposed to rescind.

According to the General Accounting Office, from 1974 through last September 20, Presidents have proposed to rescind \$69.6 billion in spending, an impressive sum. But during that time Congress has actually rescinded \$88.7 billion in spending. In other words, Mr. Chairman, Congress has since 1974 rescinded 27 percent more spending than Presidents have proposed to rescind. That is not widely understood, or something for which Congress receives the credit it deserves.

Mr. Chairman, the goal of the underlying bill, and indeed this whole exercise, is to add accountability for spending decisions to the appropriations process. The goal is not merely to advance and promote the President's brand of spending over Congress' brand of spending, which is what the Solomon amendment would do.

We are dealing with the fundamental relationship between the two political branches. We must not give any President even more power than he already has to shove his priorities down Congress' throat. We have no idea what his priorities might be; we know only they will probably be different. If the President can convince a majority of each House to reject the items he has identified as wasteful and proposed to repeal, then he ought to prevail. But he ought not prevail with only minority support. If he lacks majority support for his position, then he can still use his regular veto; nothing in the bill affects that.

Mr. Chairman, the bill is designed to give the President the responsibility to ferret out arguably wasteful items in appropriations acts and force Congress to approve them again if it wishes. I believe the bill will achieve the desired effect without disrupting the balance of power so carefully created by our Founding Fathers.

The Solomon amendment, on the other hand, would enable the President and a minority in one House to dictate his priorities to majorities in both Houses. In my opinion, the Solomon amendment would also make getting the bill through the Senate tougher, if not impossible. I urge all Members to reject the Solomon amendment, and I reserve the balance of my time.

Mr. Chairman, I reserve the balance of my time.

Mr. STENHOLM. Mr. Chairman, I yield 2 minutes to the gentleman from Georgia [Mr. DEAL].

Mr. DEAL. Mr. Chairman, last year I joined the gentleman from Minnesota [Mr. MINGE] and 11 other freshmen Democrats in introducing an enhanced revision provision which is very similar to the amendment being offered by the gentleman from Texas [Mr. STENHOLM] this year. I am pleased that he has improved on the base text of the amendment to the bill that is being offered today by incorporating many of those suggestions that we had last year.

Now, I have listened with interest to the argument that we should not pass either of these provisions because we must guard the prerogative of the legislative branch of government over the budgetary process. And I understand that. For after all, we have done a great job, right by ourselves. Our debt is only \$4.6 trillion. Maybe we just need a little more time. For after all, it has only been 25 years since we were able to balance the budget. And maybe we should not put anymore power into the hands of someone who would use that power to leverage votes on other legislative issues, for such a concept is obviously an abuse that is foreign to this body.

Well, I am willing to take the chance. I think our debt is too big. I think 25 years of trying is too long. I am willing to put the President, any President, in the caldron with us, to try to make it better.

Now, if the real concern about this proposal is the loss of legislative prerogative, then I, and I am sure many others, would suggest that let us limit it to only those occasions when the budget is out

of balance. That might put some incentive on us to do a better job as well.

In conclusion, I am one of those freshmen Democrats who last year supported the Solomon proposal, and intend to do so today. And, if it fails, I intend to vote for the Stenholm amendment. I would urge others to do the same.

CONGRESSIONAL RESEARCH SERVICE,
THE LIBRARY OF CONGRESS,
Washington, DC, March 30, 1993.

To: Hon. Charles Stenholm. Attention: Ed Lorenzen.

From: American Law Division.

Subject: Application of rescission authority to tax expenditures.

This memorandum provides, at your request, quick analysis of whether the same constitutional principles that govern application of rescission authority to appropriated funds apply as well to rescission of "tax expenditures." We understand as well that the requested context for analysis is H.R. 1013, a bill entitled "Expedited Consideration of Proposed Rescissions Act of 1993." It is proposed that language be added to that bill adding "tax expenditures" as a category within which the President may trigger expedited congressional consideration of proposed rescission legislation.

Some background may be helpful. The same constitutional principles govern application of rescission authority to "appropriations" and to "tax expenditures." These governing principles are set out in previously prepared memoranda enclosed for your review: "Constitutionality of Granting President Enhanced Budget Rescission Authority," June 27, 1989; and "Adequacy of Standards in Bill Granting President Enhanced Budget Rescission Authority," July 21, 1989, both by Johnny H. Killian, Senior Specialist in American Constitutional Law, CRS. The basic issue raised by actual conferral of rescission authority on the President involves delegation of legislative authority, and whether there are adequate standards set forth in the law so that it can be determined whether the executive has complied with the legislative will. In 1989 the Supreme Court held in *Skinner v. Mid-America Pipeline Co.*, 490 U.S. 212, 223, that the same principles govern delegation of taxing authority that govern delegation of Congress' other authority.

[T]he delegation of discretionary authority under Congress' taxing power is subject to no constitutional scrutiny greater than that we have applied to other nondelegation challenges. Congress may wisely choose to be more circumspect in delegating authority under the Taxing Clause than under other of its enumerated powers, but this is not a heightened degree of prudence required by the Constitution.

We note, however, that no constitutional delegation issues are posed by H.R. 1013 or the proposed amendment. Instead, the bill merely provides for expedited congressional consideration of presidential proposals that Congress enact legislation authorizing rescission of "any budget authority provided in an appropriations Act." No authority to effectuate a rescission, to exercise a line-item veto, or otherwise to nullify statutory enactments would be conferred on the President by the bill. Inclusion of "tax expenditures" along with budget authority as a category about which the President may pro-

pose legislation that will receive expedited consideration does nothing to change this basic fact that the bill contains no delegation of rescission or taxing authority.

With or without a delegation of authority, the principal constitutional distinction between the categories of budget authority and tax expenditures is the requirement of Art. I, § 7, cl. 1 that all bills for raising revenue shall originate in the House of Representatives. A bill providing for "tax expenditures" (currently defined in 2 U.S.C. § 622(3) as "revenue losses attributable to provisions of the Federal tax laws which allow a special exclusion, exemption, or deduction . . . or which provide a special credit, a preferential rate of tax, or a deferral of tax liability") might also include measures for raising revenues, and a bill providing for repeal of tax expenditures could be considered to be a bill for raising revenues.

A further point. The President has the power conferred by Art. II, § 3 of the Constitution to "recommend to [Congress] consideration such measures as he shall judge necessary and expedient," and Congress of course cannot prevent the President from proposing consideration of legislation, including legislation that would rescind budget authority or repeal tax expenditures. In conferring authority to propose rescissions that will be subject to expedited consideration by the Congress, the bill also restricts the President's authority to make a second such request and does not explicitly tie that restriction to operation of the expedited procedures. The bill would add a new section 1013 to the Congressional Budget and Impoundment Control Act of 1974, and subsection (a) would provide in part that "[f]unds made available for obligation under this procedure may not be proposed for rescission again under this section or section 1012." A reasonable implication of "proposed . . . under this section or section 1012" is that a proposal may be submitted independently of the cited authority, and that the only restriction is that the expedited procedures authorized by the new section or in connection with existing section 1012 would not be operative. Thus, while the language can and should be interpreted to avoid any constitutional issue that would be created by interference with the President's authority under the Constitution to make recommendations to Congress, a more direct statement tying the restriction to operation of the expedited procedures could eliminate any basis for question.

GEORGE COSTELLO,
Legislative Attorney, American Law Division.

Mr. DERRICK. Mr. Chairman, I yield 4 minutes to the distinguished gentleman from York, SC [Mr. SPRATT].

Mr. SPRATT. Mr. Chairman, I thank the gentleman from Edgefield for yielding.

Mr. Chairman, for those who support a statutory line item veto, Judge Robert Bork, who is an imminent conservative and a Republican, I believe, has written a recent Law Journal article, and it bears citation. He says:

"In particular, the solution of the line-item veto appears dubious, at best. A solution nobody thought of for 200 years has the burden of persuasion in constitutional matters. And the case for the line-item veto seems less than completely persuasive. That is not to say

the idea of line-item vetoes should be dismissed out of hand. It is only to say that it is highly unlikely that the courts would be inclined to find such a power in the Constitution as written and ratified. It would probably require a constitutional amendment."

So the first argument you meet, if you want to propose a statutory line-item veto, is that why has no Congress, why has no President, for over 200 years, noticed that the Constitution claimed this? Those who claim that they can find the authority in the Constitution have to answer this question. They have to answer the question why George Washington, who presided over the Constitutional Convention, did not notice it himself, did not know it himself. He said about the Constitution:

"From the nature of the Constitution, I must approve all parts of a bill, or reject it in toto."

William Howard Taft, another reputable President, Republican, he was both President and Chief Justice, said:

"The President has no power to veto parts of the bill and to allow the rest to become law. He must accept it or reject it."

But where Judge Bork and General Washington, President Washington, and Chief Justice Taft have refused to tread, those who want a line-item veto have rushed in. Essentially what they say is maybe the Constitution does not give this power to the President, but maybe we can confer upon him even this broad power. Maybe we can give it to him even though it is not in the Constitution. Maybe we can amend the Constitution by statute.

The gentleman from New York [Mr. SOLOMON] does not use the term, but as I read his bill, it appears to me the device he is using is delegation. He is suggesting that we can delegate to the President the power to veto items in the bill in lieu of vetoing the entire bill itself.

That is a giant step. We are changing the Constitution by statute, and we are giving the President some broad powers, as everybody here would acknowledge. Powers as broad as the budget we pass every year. Thirteen appropriations bills, with billions of dollars of appropriated money in it, year in and year out, a power so broad, so unique, so unusual, that it has to beg the question, is it constitutional to delegate power so broadly.

Fifty years ago the Supreme Court said sweeping delegations of legislative power are unconstitutional. For a long time that was bedrock constitutional law. It has been eroded by lots of delegations we have given to the executive branch, but it is still on the book.

A lot of water has flowed over the dam at the Supreme Court since that was said, but 7 years ago, in a case dealing with the budget authority of the Congress, the Synar case, challenging the authority of Gramm-Rudman-Hollings, Judge Scalia said the ultimate judgment regarding the Constitutionality of a delegation must not be made on the basis of the scope of the power alone, but on the basis of its scope, plus the specificity of the standards that govern its exercise.

So the broader the scope, the more specific the standards must be, the more precise and rational they may be.

There is no question here that the scope of delegation is immense. It is huge. So the guidelines have to be fairly precise. So let us ask ourselves then what guidelines, what conditions, do we

impose, would the gentleman from New York [Mr. SOLOMON], impose upon the President when he chooses to use this power that he would give the President.

First of all, his bill says that the rescission must reduce the deficit or must reduce the debt or limit discretionary spending. That is tautological. Any sort of cut is going to reduce the deficit or reduce spending. So this is not a standard at all.

That is not a standard because any kind of cut will result in a deficit reduction or a reduction in discretionary spending. Then he says, the rescission must not impair essential governmental functions or harm the national interest. We all know those standards are so broad that they are literally empty, totally subjective. And the President can fill them out any way he chooses to. So this is not, consequently, a delegation. It is an abdication. It is an abdication of power to the President and an abdication, in my opinion, of our duty to uphold and defend the Constitution.

If we want to add a line-item veto to the President's powers, this broad, enormous grant of authority, then there is a way to do it, a right way to do it: Amend the Constitution. Let us not pass a bill that will not pass constitutional muster.

Mr. SOLOMON. Mr. Chairman, I wish I had time to tell the gentleman why the American law division does not agree with him. Ours is constitutional.

Mr. Chairman, I yield 3 minutes to the gentleman from Illinois [Mr. MICHEL], who Members on both sides of the aisle agree is one of the most respected Members ever to serve in this body. We are going to miss you, BOB.

Mr. MICHEL. Mr. Chairman, I rise today in strong support of the amendment before us to H.R. 4600, cosponsored by the gentleman from New York and myself, the only legislative line item veto proposal that will be voted on today.

Masters of redundancy that we are, we are being asked to vote on the base proposal which is identical to legislation that was debated on April 28 and 29 last year and has received no action in the other body. This exercise in congressional *deja vu* comes down to one question: Do we really want a true legislative line-item veto. If we do, we must support the proposal offered by the gentleman from New York [Mr. SOLOMON] and myself.

Our substitute calls for two-thirds of those Houses to override the President's decision to rescind wasteful and unnecessary spending. H.R. 4600, on the other hand, only speeds up the process that is already in current law. Furthermore, it limits this additional rescission procedure to the 103d Congress. What a farce.

Supporters of H.R. 4600 argue that their approach provides an ironclad up or down vote on the Presidential rescissions sent to Congress under this procedure. That sounds very inspiring. I am really deeply moved, but let us face it, folks. We all know that a special rule can be adopted by the House to preempt that rescission procedure. And if such a rule can be adopted, it will be adopted.

Let me also mention that H.R. 4600 does not contain my proposal that allows the President to veto special interest tax breaks in large revenue measures. But remember, the House overwhelmingly approved my provision to deal with that problem by a vote of 257 to 157 during our first debate on the issue, by 100 votes.

At that time, due to procedural maneuvering, I was allowed to offer my tax amendment only to the Republican substitute line-item veto and not to the base bill.

This year both the Solomon-Michel and Stenholm amendments have incorporated this tax proposal.

In conclusion, let me just remind Members that Mark Twain once said, "Always do right. This will gratify some people and astonish the rest."

So let us gratify the people and astonish ourselves by doing the right thing by voting for the Solomon-Michel substitute. It allows the President to rescind unnecessary and wasteful spending and to veto targeted tax benefits that benefit only a particular taxpayer or limited class of taxpayers. The rescissions and vetoes stand unless overridden by two-thirds majority in each House.

This is a substantial and useful tool to control spending. Many Governors have it in one form or another today.

Let us give this same tool to the President. It will be a step in restoring the confidence of the people in this institution.

Mr. DERRICK. Mr. Chairman, I yield myself 4 minutes.

The committee ought to reject the Stenholm-Penny-Kasich amendment, for several reasons. First, it is simply too broad in terms of timing. The amendment would allow a President potentially to set our agenda by letting him propose rescissions subject to expedited consideration at any time, not just within 3 days after signing an appropriations act.

Mr. Chairman, do we really want to give a President the power to force us to set aside other legislation to consider and vote on his rescission proposals, on a timetable selected by him? Under the Stenholm amendment it would be possible for a President to inundate us with rescissions so as to force us to vote on rescissions, day after day. As long as he did not re-use a rescission, he could literally submit one a day all year long.

By comparison, the committee bill requires a President to decide, within 3 days of signing an appropriations bill, what items in each bill he wanted to rescind, and submit those items to Congress as a package for an up-or-down vote.

This is certainly more akin to a true line-item veto than the Stenholm amendment, under which a President could tie up the appropriations committees and the House and Senate to his heart's content.

Second, and just as disturbing, by allowing the President to propose rescissions for expedited consideration at any time, Congress would give the President a very powerful weapon to use against individual Members to extort votes for more spending, or other concessions, that might not well serve the public interest.

For example, the President could threaten to rescind key spending projects in a Member's district, meritorious or not, unless the member voted for the President's favorite project or program.

A President could say to a Member "I'll send up a bill to rescind your new \$20 million courthouse unless you vote for my \$20 billion space station."

We heard testimony in my subcommittee in the last Congress that Governors can use a line-item veto power not only to reduce spending, but also to increase spending when it suits them. Clearly

the Stenholm amendment offers that potential much more so than the committee bill.

Third, unlike the committee bill, the Stenholm amendment contains no expedited procedures for the consideration of a congressional alternative to the President's rescissions. These procedures were devised last year to ensure that giving a President a modified line-item veto will not just give him another tool with which to promote his brand of spending over ours.

Of course, the Rules Committee could always report a rule to provide for the separate consideration of an alternative rescission bill. But under the committee bill the alternative could be considered along with the President's bill in an efficient, orderly process. Under the Stenholm amendment, it could not.

Finally, the Stenholm amendment would make the new procedure permanent. Even if the Stenholm amendment did not have these other flaws, it ought to be temporary rather than permanent. The committee bill is temporary to force Congress to review the experiment and decide, consciously, if it wants it to endure. The same principles that make a sunset provision on a new or existing Federal program attractive and desirable certainly apply here, and for the same reasons.

Mr. Chairman, I urge all Members to oppose the Stenholm amendment and support the committee bill. The committee bill will give the President the tools he needs to sift out low-priority spending without giving him the power to dictate our agenda or to pressure Members to vote for other initiatives. It does the greatest amount of good for the least amount of harm, and it deserves our support.

Mr. Chairman, I reserve the balance of my time.

Mr. SOLOMON. Mr. Chairman, I yield 2 minutes to the gentleman from Wilmington, DE [Mr. CASTLE], an outstanding example of a Governor who did not abuse the line-item veto.

Mr. CASTLE. Mr. Chairman, I thank the gentleman from New York [Mr. SOLOMON] for yielding time to me, and for his balanced energy on this issue, and on the issue in the Committee on Rules as well.

Mr. Chairman, I have never been involved in anything quite like this in my history of involvement in government. I do not know if it is unique here. It is pretty rare, at least, that we are considering the same legislation that we have passed which has not been considered by the Senate.

If I have to pick one thing we have done in this body in the last 2 years that I would say we should do again, it is this particular bill with these particular amendments, because I do not think there is anything that could help balance our budget faster, and I do not think there is anything on which I would like to see more votes than on this. I basically, as a matter of fact, am going to be able to vote yes on budget items right down the line here, probably, maybe for the first time I have been here.

The original H.R. 4600 of the gentleman from South Carolina [Mr. SPRATT] is watered down, but I think, nonetheless, can be supported. The document of the gentleman from Texas [Mr. STENHOLM] is remarkably improved in the enhanced expedited rescis-

sions, but it is true that the Solomon-Michel amendment is the one that I think we should support, the true line-item veto.

Mr. Chairman, budgeting at the Federal Government level is extraordinarily complex. We authorize, we appropriate, we use base lines, we use budget caps. We have an entitlement commission. It is very hard to figure out everything that we are doing. It is as complex as anybody has ever dealt with.

The simplicity of the line-item veto I think is clear to every American who has ever paid any attention to budgets. It is so simple that the President will take a pen and draw a line through it and initial it and return it to this body. When this body has to override it, then it goes back to the President again for a vote, and then it would take a two-thirds vote, so essentially the burden would be upon this body to do this.

This has worked. It has worked throughout the United States of America, and I think that it can work here. Unfortunately, Mr. Chairman, the Stenholm amendment and the Spratt resolution, the original bills, would allow the House to operate and the Senate to operate with doing very little. The line-item veto would force us to step forward.

Forty-three Governors have a line-item veto. I have never heard a complaint from any State about that line-item veto. In fact, more and more States keep adopting it. I would encourage all of us to adopt the line-item veto, to vote for that if we vote for nothing else today.

Mr. SOLOMON. Mr. Chairman, there are six cosponsors of this amendment, and we have heard from one, the former Governor of Delaware.

I yield 2 minutes to another, the gentleman from Hamburg, NY, [Mr. JACK QUINN] who is very out front with his support of this amendment.

Mr. QUINN. Mr. Chairman, I thank the gentleman from New York for yielding time to me.

Mr. Chairman, I rise in strong support today for the Michel-Solomon substitute amendment—the real line-item veto.

One year ago, this House considered H.R. 1578 the same expedited rescission bill. One year ago, I joined with my colleagues, Mr. BLUTE and Mr. CASTLE, to try and give President Clinton what he asked for in his campaign: the real line-item veto. On April 29, 1992, Bill Clinton said “I strongly support the line-item veto because I believe we need to get Federal spending under control.”

What he got last year, Mr. Chairman, was a watered down substitute. Today the Michel-Solomon amendment is very similar to the amendment we offered a year ago—but with improvements. It is the real thing, Mr. Chairman.

Eighty percent of the people in this country want a line item veto. Forty three of our Nation's Governors have it—and the President should have it too. This is not a political issue—it is a budget issue, and, it is and, should be, a bipartisan issue.

I stand here today with my colleagues as a freshman from the minority party. We joined together to give the President, who is from the majority party, this much needed fiscal reform. It does not matter if you have a “D,” “R,” or an “I” next to your name. If you

support fiscal responsibility and real reform of Congress you should vote for the line item veto.

I understand that the House is trying to send a message to the Senate on the importance of this legislation. I would like to remind all the members of the message the American people sent to both bodies of Congress in the Fall of 1992.

The message was change. We may have heard the cries for reform—but have we listened?

The choice we have before us today is clear. A line-item veto that represents real reform. Or, this Congress can once again pass a toothless reform bill that cheats the American people who desperately want reform.

I urge my colleagues to choose the real thing. Choose the line-item veto and support the Michel-Solomon amendment. Let us get wasteful Federal spending under control, let us help the President, and let us make Congress balance its checkbook.

Mr. SOLOMON. Mr. Chairman, I yield 2 minutes to the gentleman from Shrewsbury, MA [Mr. BLUTE], one of the six cosponsors of this amendment.

Mr. BLUTE. Mr. Chairman, I thank my friend and colleague, the gentleman from New York, for yielding time to me.

Mr. Chairman, today we revisit an issue that should have been decided long ago, giving the President of the United States a true line-item veto authority.

Mr. Chairman, as I stand here today it seems like *deja vu*, in that we had almost the exact same debate last year. But I welcome this opportunity to again debate—and hopefully this time, pass—the true line-item veto.

The Solomon-Michel substitute is the proposal that we will vote on here today which will have the most impact on out-of-control Federal spending—because, unlike the other amendments, it gives the President the ability to maintain cuts without the approval of Congress. This is the key element to the success of the line-item veto, because it is unlikely that Congress will vote to override unless the President proposes a truly egregious cut. Mr. Chairman, this may put some Members of Congress in an uncomfortable position, but frankly, Congress deserves to be in that position, because it has put America under a mountain of debt and shown no significant signs of dealing with the huge yearly deficits that are slowly but surely weakening our economy.

We all know that the need for permanent reform is clear. In 1960 our total Federal budget comprised 18 percent of our gross national product. By 1990 that percentage had risen to 23 percent. This trend is truly ominous, especially in light of our \$4.6 trillion debt, and the true line-item veto is one way to help reverse this trend.

If anyone has doubts about the efficacy of a line-item veto let me just cite a few facts. In the 10 States that have an item-reduction veto, which allows the reduction of a line item and not strictly the elimination, Governors were able to cut the rate of spending by 2.7 percent every 2 years. Also, spending in those 10 States was found to be 14 percent lower than in the States that do not have any line item authority.

Mr. Chairman, I urge my colleagues to support the Solomon-Michel amendment, the true line-item veto.

Mr. STENHOLM. Mr. Chairman, I yield such time as he may consume to the gentleman from Utah [Mr. ORTON].

Mr. ORTON. Mr. Chairman, I rise in strong support of the Stenholm-Penny-Kasich amendment to the Expedited Rescissions Act of 1994.

First, I would like to commend the House leadership for bringing this important legislation to the floor of the House. I have supported expedited rescission since coming to Congress. In fact, a very similar proposal is included in title V of my "Comprehensive Budget Process Reform Act," which I introduced in the 102d Congress and at the beginning of the 103d Congress.

There has been a great deal of publicity recently about the A to Z proposal. The goal of A-to-Z is to open up the budget process, to allow unlimited opportunities to offer spending cut amendments. With respect to discretionary spending, I would like to commend the House leadership for recently allowing an open rule on spending cut amendments for the last 11 appropriations bills. This far exceeded the thrust of the A-to-Z petition, which was limited to cutting fiscal 1994 spending.

I believe that not only should each Member of Congress have and opportunity to propose spending cuts, but the President should also have such an opportunity to propose reductions in spending. The Expedited Rescissions Act which we are voting on today would be a significant step forward in this regard. Quite simply, it would force the House and Senate to vote on Presidential requests to rescind specific items of spending.

I also commend my colleagues, Representatives STENHOLM, PENNY, and KASICH, for offering their amendment. This is a bipartisan effort to improve and perfect the bill before us. Let me explain these improvements.

First, this amendment would make the expedited rescission procedure permanent. Expedited rescission is a much needed change, and should not be limited to the current Congress, as H.R. 4600 does.

Second, the Stenholm-Penny-Kasich amendment allows Presidential rescission messages to be sent at any time during the year, rather than only allowing them immediately after the signing of appropriations bills. This ensures that the administration will be able to make a more careful evaluation of spending that has been approved by Congress, prior to any proposals to rescind.

Third, the amendment makes a number of more technical changes. For example, the amendment allows 50 House Members or 15 Senators to request a vote to strike an individual rescission from the President's proposed rescission package.

Finally, the amendment extends the special rescission procedures to allow Presidential proposals to repeal targeted tax benefits in revenue bills. This is a very important change, allowing consideration of special interest provisions inserted in large revenue bills. I would even suggest that we also include contracting authority within the enhanced rescission authority to be given the President under this bill. If the President had authority to request rescission of appropriations, tax expenditures, and contracting authority, he would have the mechanism to request reduction of all types of Government spending.

In conclusion, I believe these changes are important modifications to the bill on the floor. I urge this body to approve the Stenholm-Penny-Kasich amendment.

The CHAIRMAN. The gentleman from New York [Mr. SOLOMON] has 2 minutes remaining.

Mr. SOLOMON. Mr. Chairman, I guess we are being charged for a minute of time that my good friend, the gentleman from Florida [Mr. HUTTO] had used.

Mr. DERRICK. Mr. Chairman, I would be delighted to yield an additional minute to the gentleman from New York [Mr. SOLOMON].

Mr. SOLOMON. If the gentleman is so good as to do that, I yield the remainder of our time, my 2 minutes plus the 1 minute given by the gentleman from South Carolina [Mr. DERRICK], to one of the most distinguished Members of the House, the gentleman from Shelbyville, TN [Mr. COOPER], who is a strong supporter and co-sponsor of the true line-item veto, to sum up for our side.

The CHAIRMAN. The gentleman from Tennessee [Mr. COOPER] is recognized for 3 minutes.

Mr. COOPER. Mr. Chairman, I thank the gentleman for yielding me the time.

Mr. Chairman, today the House of Representatives has for the second time in this Congress the opportunity to consider fundamental and far-reaching budget reform, the real line-item veto. The Michel-Solomon amendment should be passed by this House. This is not and should not be a partisan issue. It is ironic that many of my colleagues on the Republican side of the aisle who often criticize our President today want to give him more power. It is also ironic that many of my friends on the Democratic side who praise our President are keeping his hands tied. As has been noted, 43 Governors have this power. It works. It works well. Our President needs this power.

When Governor Clinton campaigned for office, he asked for this power. One quotation has already been read from his remarks, but in his book "Putting People First," on page 25, which is widely circulated around the Nation, it said, "Line-item veto. To eliminate pork-barrel projects and to cut Government waste, we will ask Congress to give the President the line-item veto."

Mr. Chairman, that book did not say expedited rescission, it did not say modified line-item veto. It said line-item veto. Candidate Clinton was right. Presidents do need this power. Presidents get the blame. Presidents need the power to do something about it.

Mr. Chairman, having served under three Presidents, Presidents Reagan, Bush, and Clinton, I have felt that all three Presidents needed and deserved this power. I am for the real line-item veto because the President with the aid of only one-third plus one in the House can uphold the cut. That is maximum cutting power. That is a very sharp blade when it comes to cutting.

Under the Stenholm-Penny-Kasich expedited-rescission approach, the President would need a simple majority, a half plus one of either House, to uphold a cut. That is still new cutting power, but it is a much duller blade. We have had decades of bias in this country in favor of pork-barrel spending. I think it is high time that the bias should be against pork-barrel spending. The sad fact

is that it is so easy to load up a bill with pork. It is relatively easy to get majority support, but it is hard to load it up so high that it can get supermajority support. Our President needs the power to root out pork, he needs the power to stop logrolling. Forty-three Governors know that it works, including former Governor Clinton.

The mere threat of a line-item veto can keep pork out of a bill. The GAO has estimated that as much as \$12 billion could be saved annually using this device. There is no estimate so far as I know as to what the expedited rescission would do. My guess is it would be less, far less in cutting power.

The House should pass the real line-item veto tonight and force the Senate to act.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York [Mr. SOLOMON] as a substitute for the amendment in the nature of a substitute offered by the gentleman from Texas [Mr. STENHOLM].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. DERRICK. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 205, noes 218, not voting 16, as follows:

[Roll No. 327]

AYES—205

Allard	Cantwell	Franks (NJ)
Andrews (NJ)	Castle	Gallegly
Archer	Clinger	Gekas
Armey	Coble	Geren
Bacchus (FL)	Collins (GA)	Gilchrest
Bachus (AL)	Combest	Gillmor
Baesler	Condit	Gilman
Baker (CA)	Cooper	Gingrich
Baker (LA)	Coppersmith	Goodlatte
Ballenger	Cox	Goodling
Barca	Crane	Goss
Barcia	Crapo	Grams
Barrett (NE)	Cunningham	Grandy
Barrett (WI)	Deal	Greenwood
Bartlett	DeLay	Gunderson
Barton	Deutsch	Hall (TX)
Bateman	Diaz-Balart	Hancock
Bentley	Dickey	Hansen
Bereuter	Doolittle	Hastert
Bilirakis	Dornan	Hayes
Bliley	Dreier	Hefley
Blute	Duncan	Herger
Boehlert	Dunn	Hobson
Boehner	Ehlers	Hoekstra
Bonilla	Emerson	Hoke
Bunning	Everett	Holden
Burton	Ewing	Horn
Buyer	Fawell	Houghton
Callahan	Fingerhut	Huffington
Calvert	Fish	Hunter
Camp	Fowler	Hutchinson
Canady	Franks (CT)	Hyde

Inglis
 Inhofe
 Istook
 Johnson (CT)
 Johnson, Sam
 Kasich
 Kim
 King
 Kingston
 Klug
 Knollenberg
 Kolbe
 Kyl
 Lazio
 Leach
 Levy
 Lewis (CA)
 Lewis (FL)
 Lewis (KY)
 Lightfoot
 Linder
 Livingston
 Lucas
 Machtley
 Mann
 Manzullo
 Mazzoli
 McCandless
 McCollum
 McCrery
 McDade
 McHale
 McHugh
 McInnis
 McKeon
 McMillan
 Meehan

Meyers
 Mica
 Michel
 Miller (FL)
 Minge
 Molinari
 Moorhead
 Morella
 Myers
 Nussle
 Orton
 Oxley
 Packard
 Pallone
 Parker
 Paxon
 Penny
 Peterson (MN)
 Petri
 Pombo
 Porter
 Portman
 Poshard
 Pryce (OH)
 Quinn
 Ramstad
 Ravenel
 Regula
 Ridge
 Roberts
 Rogers
 Rohrabacher
 Ros-Lehtinen
 Roth
 Roukema
 Royce
 Santorum

Saxton
 Schaefer
 Schenk
 Schiff
 Sensenbrenner
 Shaw
 Shays
 Shuster
 Skeen
 Smith (MI)
 Smith (NJ)
 Smith (OR)
 Smith (TX)
 Snowe
 Solomon
 Spence
 Stearns
 Stump
 Sundquist
 Swett
 Talent
 Tauzin
 Taylor (NC)
 Thomas (CA)
 Torkildsen
 Upton
 Vucanovich
 Walker
 Walsh
 Weldon
 Wilson
 Wolf
 Young (AK)
 Young (FL)
 Zimmer

NOES—218

Abercrombie
 Ackerman
 Andrews (ME)
 Andrews (TX)
 Applegate
 Barlow
 Becerra
 Beilenson
 Bevill
 Bilbray
 Blackwell
 Bonior
 Borski
 Boucher
 Brewster
 Brooks
 Browder
 Brown (CA)
 Brown (FL)
 Brown (OH)
 Bryant
 Byrne
 Cardin
 Chapman
 Clay
 Clayton
 Clement

Clyburn
 Coleman
 Collins (IL)
 Collins (MI)
 Conyers
 Costello
 Coyne
 Cramer
 Danner
 Darden
 de la Garza
 de Lugo (VI)
 DeFazio
 DeLauro
 Dellums
 Derrick
 Dicks
 Dingell
 Dixon
 Dooley
 Durbin
 Edwards (CA)
 Edwards (TX)
 Engel
 English
 Eshoo
 Evans

Farr
 Fazio
 Fields (LA)
 Filner
 Flake
 Foglietta
 Ford (TN)
 Frank (MA)
 Frost
 Furse
 Gejdenson
 Gephardt
 Gibbons
 Glickman
 Gonzalez
 Gordon
 Green
 Gutierrez
 Hall (OH)
 Hamburg
 Hamilton
 Harman
 Hastings
 Hilliard
 Hinchey
 Hoagland
 Hochbrueckner

Hoyer	Miller (CA)	Serrano
Hughes	Mineta	Sharp
Hutto	Mink	Shepherd
Inslee	Moakley	Sisisky
Jacobs	Mollohan	Skaggs
Jefferson	Montgomery	Skelton
Johnson (GA)	Moran	Slaughter
Johnson (SD)	Murphy	Smith (IA)
Johnson, E. B.	Murtha	Spratt
Johnston	Nadler	Stark
Kanjorski	Neal (MA)	Stenholm
Kaptur	Neal (NC)	Stokes
Kennedy	Norton (DC)	Strickland
Kennelly	Oberstar	Studds
Kildee	Olver	Stupak
Kleczka	Ortiz	Swift
Klein	Owens	Synar
Klink	Pastor	Tanner
Kopetski	Payne (NJ)	Taylor (MS)
Kreidler	Payne (VA)	Tejeda
LaFalce	Pelosi	Thompson
Lambert	Peterson (FL)	Thornton
Lancaster	Pickett	Thurman
Lantos	Pickle	Torres
LaRocco	Pomeroy	Torricelli
Laughlin	Price (NC)	Towns
Lehman	Rahall	Trafficant
Levin	Rangel	Tucker
Lewis (GA)	Reed	Unsoeld
Lipinski	Reynolds	Valentine
Lloyd	Richardson	Velazquez
Long	Roemer	Vento
Lowey	Romero-Barcelo (PR)	Visclosky
Maloney	Rose	Volkmer
Manton	Rostenkowski	Waters
Margolies-Mezvinsky	Rowland	Watt
Markey	Roybal-Allard	Waxman
Martinez	Rush	Wheat
Matsui	Sabo	Whitten
McCloskey	Sanders	Williams
McDermott	Sangmeister	Wise
McKinney	Sarpalius	Woolsey
McNulty	Sawyer	Wyden
Meek	Schroeder	Wynn
Menendez	Schumer	Yates
Mfume	Scott	

NOT VOTING—16

Berman	Gallo	Thomas (WY)
Bishop	Hefner	Underwood (GU)
Carr	McCurdy	Washington
Faleomavaega (AS)	Obey	Zeliff
Fields (TX)	Quillen	
Ford (MI)	Slattery	

Mrs. ROUKEMA changed her vote from "no" to "aye."

So the amendment offered as a substitute for the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN pro tempore (Mr. DE LA GARZA). The Chair would like to advise Members of the further proceedings.

The pending business is the amendment in the nature of a substitute offered by the gentleman from Texas [Mr. STENHOLM]. The gentleman from Texas has 9 minutes remaining, and the opposi-

tion, controlled by the gentleman from South Carolina [Mr. DERRICK], has 14 minutes remaining.

Mr. STENHOLM. Mr. Chairman, I yield 1 minute to the gentleman from Illinois [Mr. FAWELL].

Mr. FAWELL. I thank the gentleman for yielding this time to me.

Mr. Chairman, I rise in support of the Stenholm-Penny-Kasich substitute to the expedited Rescission Act. While I prefer the Solomon-Michel substitute, the Stenholm-Penny-Kasich proposal is an improvement over current law and is a better proposal than the Spratt bill, in my view.

The sponsors of this amendment have been leaders in this House on the important issue of budget reform.

Mr. Chairman, the Stenholm proposal contains a number of improvements over the Spratt bill. First, the Stenholm proposal grants permanent authority for the President to submit rescissions to Congress. The authority under the Spratt bill would vanish in just a few months.

Second, the Stenholm bill allows the President to devote the savings to deficit reduction and prevents Congress from reallocating the funding.

Third, the Stenholm bill allows for votes on individual rescissions rather than bundling all of the rescissions into one all-or-nothing vote on the entire package of rescissions.

Fourth, the Stenholm bill allows the President to submit rescissions any time after an appropriation bill is enacted rather than limiting the President's timeframe to 3 days.

I hope the people will join with me and vote for the Stenholm amendment.

Mr. DERRICK. Mr. Chairman, I yield 4 minutes to the gentleman from Connecticut [Mrs. KENNELLY].

Mrs. KENNELLY. Mr. Chairman, I rise in very strong opposition to the amendment offered by the gentleman from Texas [Mr. STENHOLM], the Stenholm substitute. The notion of expending rescission authority on targeted tax benefits is misguided, to say the least, in my opinion. While the opponents of this amendment talk about giving the President the ability to strike favors for individual taxpayers, the impact of this amendment—the opponents of this bill talk about this substitute as having the ability to give the President the power to strike individual tax favors to people across these United States. As a member, a 10-year member, of the Committee on Ways and Means, I have not seen too many of those individual amendments in the last 2 to 3 years, and I have to tell the Members and be very clear with the Members that this amendment is actually far broader than is being proposed.

What is a targeted tax benefit? I say to my colleagues, "Well, when you think about it, a targeted tax benefit is virtually every provision in the code with the exception of tax rates. Every other provision in the Internal Revenue Code which does not apply to all taxpayers across the board is a targeted tax benefit. Therefore, any change to the tax code can be construed as being a targeted tax credit and would be subject to rescission under the substitute."

For example, Mr. Chairman, would my colleagues say that in the home mortgage interest deduction, a deduction very important to

the people of these United States and, in fact, very important to the homeowners of the people of the United States, is a targeted tax benefit because it does not benefit all Americans? Let us remember many people are renters, and they would not be eligible.

Would my colleagues say that the earned income tax credit that some of us are very proud of that passed in the last budget resolution is a targeted tax benefit? After all, only the working poor, those of moderate income, qualify.

Are these provisions abusive? I certainly do not think so, and I do not think many of the Members of this body think so. This provision is nothing more than flatly an abrogation of congressional authority to the executive branch.

As I serve here in this body and am so proud to serve here, we have some very difficult days, but what I always hang on to, what I always can believe in, is that we are the body of the people, and the Constitution made us the body of the people. Our forefathers said we are the ones who will represent the people of these United States. And this substitute takes away power from the body of the people and gives it to the executive branch.

I know this provision only applies to tax bills sent to the President, but that does not mitigate the delegation of authority to the executive branch. I believe the only thing that will be achieved by the passage of this amendment is increased taxpayers' cynicism, and that is something we certainly do not need any more of.

When we make a mistake, and there has been occasion when the Committee on Ways and Means has made a mistake in drafting a provision, people expect us to fix it, and when we find a program that is not working or a program that encourages fraud, people expect us to fix it, and we have an obligation to correct the code under the Constitution of the United States. This provision will make these kinds of changes much more difficult.

When the Committee on Ways and Means contemplates tax policy changes, we establish an effective date. That is so all taxpayers will notice and will not be caught in the middle of a transaction. We still are a capitalist government that does rely on business transactions. To the extent these dates can be deleted or rescinded as a result of this provision, we are going to see an amazing increase in litigation as taxpayers argue about whether transactions are governed by old and new law.

Mr. Chairman, I can understand that because of the lateness of the day Members do not understand the importance of this. I only hope they look at it and vote "no" on this substitute.

Mr. STENHOLM. Mr. Chairman, I yield 1 minute to the gentleman from New York [Mr. SOLOMON], a most able and capable advocate of the last amendment.

Mr. SOLOMON. Mr. Chairman, I rise in support of the amendment offered by the gentleman from Texas [Mr. STENHOLM]. And I want to thank the 205 Members of the House, including 32 good Democrats, who supported the Solomon amendment a few minutes ago. I want to thank the gentleman from Texas [Mr. STENHOLM] because he promised a fair fight. It was a fair fight. My side lost by a swing vote of only 6 votes. Next year we are going to win it. But this year the only major differences between us is this:

I require a two-thirds vote in Congress. That is true line-item veto. The Stenholm substitute requires a majority vote to override the President. That is the real difference. Either way it is going to result in some deficit reduction because the savings, if any, will go to deficit reduction, not new spending.

Mr. Chairman, that is why I am going to support the amendment offered by the gentleman from Texas [Mr. STENHOLM], and I hope everybody else here does.

Mr. DERRICK. Mr. Chairman, I reserve the balance of my time.

Mr. STENHOLM. Mr. Chairman, I yield 3 minutes to the gentleman from Minnesota [Mr. PENNY], an original cosponsor and author of this amendment.

Mr. PENNY. Mr. Chairman, I strongly urge support for the Stenholm-Penny-Kasich substitute. This substitute represents several improvements over the Spratt bill.

First of all, Mr. Chairman, our proposal applies to both appropriations and targeted tax benefits while the Spratt bill is restricted only to appropriations. In addition, the President and Congress under our approach would be able to designate the savings from the rescinded funds to deficit reduction. Third, our proposal allows expedited rescission to occur at any time instead of just the 3-day window after an appropriations bill is passed. Finally, our proposal permanently strengthens the rescission process instead of extending it only through the end of this legislative session, as is the case with the Spratt proposal. It is also important to stress that, unlike the amendment offered by the gentleman from New York [Mr. SOLOMON] which was just rejected by the Congress, we do not require a situation in which the President would be successful unless there is a two-thirds override within the Congress. We allow the President's proposed rescissions to be accepted or rejected by a majority vote.

The bottom line, however, is that we require a vote within a relatively limited timeframe. We require that the President's rescission package, having been sent to committee, would be then brought back to the House floor and voted up or down in a limited timeframe.

There are reasons for strengthening the rescission process. Expedited rescission authority would certainly provide the President and the Congress with a stronger tool to reduce the budget deficit. According to a 1992 GAO report, Mr. Chairman, another \$70 billion could have been rescinded between 1984 and 1989 if Congress had approved all of the rescissions submitted by the President. Under current law Congress can kill a rescission by simply refusing to bring it to a vote. The magnitude of the deficit crisis should compel us to at least consider every option for cuts that is presented to us by the President.

Under the Stenholm-Penny-Kasich plan, Mr. Chairman, we guarantee that that vote will occur. In addition, expedited rescission authority has greater potential for significant deficit reduction if it is expanded to also include targeted benefits. One of the biggest criticisms of the current expedited rescission process is that it does not include these tax expenditures. Under the Stenholm-Penny-Kasich plan tax items would be included.

Fundamentally we need common sense budget reform at the national level. It is absurd to the American public that in Congress baselines do not represent a freeze on spending. Baselines allow for continuing increases in spending levels. It is nonsense to the American public that in Congress cuts are not cuts. We kill a program, but the money stays in the budget to be spent somewhere else.

It is nonsense to the American public that in Congress cuts are not cuts. We kill a program, but the money stays in the program to be spent somewhere else. It is nonsense to the American public that emergencies are not emergencies. Every time we pass a bill to deal with a natural disaster for one portion or another, we lard it up with pork-barrel spending, and that does not make sense to the American public.

We want to take the budgeting nonsense out of the way we do work in Washington. We want cuts to be cuts. We want the process to make sense. We want to give the President the authority to succeed when he suggests rescissions to the Congress. We want to end the spending bias and put the bias in favor of reducing the deficit.

Under current law, dating from the creation of the Budget Act in 1974, Presidential rescissions automatically expire unless approved by Congress. Like the Spratt bill, our amendment establishes an expedited rescission process whereby the Congress must vote on rescissions submitted by the President. However, we propose a number of changes to the Spratt bill to strengthen this new enhanced rescission process.

First, our amendment grants the President the option of earmarking savings from proposed rescissions to deficit reduction rather than new spending. Second, the President would be able to single out newly enacted targeted tax benefits as well as appropriated items. Third, the amendment allows the President to submit a rescission package for expedited consideration at any point in the year. Fourth, unlike the Spratt bill which establishes enhanced rescission authority for just the remainder of the 103d Congress, the Stenholm-Penny-Kasich amendment permanently extends this new rescission authority. Finally, our amendment provides for separate votes on individual items in a rescission package.

In part, what we attempt to accomplish with this amendment is to alter the prospending bias that exists today in the Congress. According to the General Accounting Office [GAO], just one in three individual rescissions, representing only 30 percent of the total dollar volume of all rescissions, submitted by Presidents since the creation of the Budget Act in 1974 has been enacted. If Presidential rescission messages must be voted on rather than ignored, more wasteful spending will be identified and ultimately extracted from the Federal budget.

The amendment we offer today is a well crafted and modest attempt to inject accountability into the budget process while making the current Presidential rescission authority meaningful. The changes our amendment makes to the underlying bill strengthen and enhance the objective of the author, Mr. SPRATT, and I urge a strong and overwhelmingly vote in support of the amendment.

Mr. DERRICK. Mr. Chairman, I yield 2 minutes to the gentleman from Hawaii [Mr. ABERCROMBIE].

Mr. ABERCROMBIE. Mr. Chairman, I would like to follow up on what the gentlewoman from Connecticut [Mrs. KENNELLY] had to say. Just to give you an example, it is very, very difficult for me to believe how the people's House, a body of legislators constituted against the king, this is the commons against the king, and you want to side with the royalists. We have fought since the Magna Carta, from the time of the Magna Carta, to increase the power of the people, and we sit here in 1994 and say we are going to give it back to the royalists? We are going to give it back to the king?

In the last Congress we balanced the request by the executive branch to extend the research development tax credit for major corporations with the provision for low-income-housing tax credit. If you pass this, you allow the royalists to take care of the corporations and take the benefit away from the poor. This is a matter of the commons versus the king. It is a matter of the people of the United States, the people we represent, against the new royalists. Defeat this amendment.

Mr. STENHOLM. Mr. Chairman, I yield the balance of our time, 4 minutes, to the gentleman from Ohio [Mr. KASICH], another original cosponsor and hard worker on this approach.

Mr. KASICH. Mr. Chairman, I want to thank the gentleman from Texas for yielding, and say that this, we think is the start of good things to come with the gentleman from Texas [Mr. STENHOLM] and the gentleman from Minnesota [Mr. PENNY] in a true bipartisan effort, to bring some dramatic change to the way things are done in this country.

Initially, I want to direct my comments to my Republican colleagues who have been very frustrated with the fact that for the past 2 years we have been voting on enhanced rescission bills that we have felt have been toothless.

In fact, last year we made a number of arguments that we said represented a toothless bill on this House floor. They were essentially four in nature.

One was we said that the expedited rescission authority, in other words, the nearly line-item veto, will only last for 6 months. We permanently extend the authority in this provision.

We said it only applies to appropriation bills, unlike the Solomon-Michel bill. We have now included the tax benefits that we read about the next day after the Committee on Ways and Means brings a foot high bill to this floor that has a lot of sweeteners for people to vote for.

We said there was no guarantee that the savings would go to deficit reduction. Under this bill, the President can designate the savings for deficit reduction.

Finally, it has such a limited window for cuts. Under this bill, the expedited rescission, or the essential line-item veto, can be used at any time.

This, ladies and gentlemen of the House, represents the most significant movement on trying to control the deficit through the use of the line-item veto that we have voted on and have a chance to pass in this House since I have been a Member of this House. This is precisely what the American people have been calling for, and under this provision, if the President wants to slice the pork out of a bill, he sends that bill up here to the House of Representatives

and we must vote. And if at least 50 plus 1 Member say we agree with you, it is pork, we zero out that program. And if in fact these provisions had been made into law starting all the way back in 1984, between 1984 and 1989, we could have cut \$70 billion worth of programs that the Presidents of both parties have felt do not make sense.

I would suggest to those people who have fought long and hard for the line-item veto, a constitutional line-item veto, we should still push for it. We should still work for it. But this comes as close as any bill that has been voted on this floor that has an excellent chance of passing, that gives us something right along the lines of the line-item veto, that will permit the President to make cuts in programs, within categories of programs, to send those targeted cuts to this House floor, and we then must vote. And if 50 plus 1 Member agrees, we get rid of the pork.

The gentleman from Minnesota [Mr. PENNY] referred to the pork that is put in these emergency appropriation bills. If we can find that pork, if the President agrees, if he sends it up here, we will vote on it. Under current law, we do not vote. The way in which they let the pork flow through is we just never have a vote. This will force a vote. It will bring real change.

Finally, as you can see, in absence of this kind of legislation, only 31 percent of the rescission requests, only 31 percent of the cuts that the Executive has made since 1984, have been enacted. Sixty-nine percent of them have never been acted upon. And if this House of Representatives was forced to vote on the President's reductions in spending, if in fact we only needed 50 percent plus 1 Member, we would be in a position of having the opportunity to pass 69 percent more in cuts.

I urge the Members to send the message across this country that we want a line-item veto, that we want to control spending, and that STENHOLM, PENNY, and KASICH are on the right track. Let us give a giant vote and send a message to the other body that we want some fiscal responsibility in this country.

Mr. DERRICK. Mr. Chairman, I yield 1 minute to the distinguished gentleman from California [Mr. FAZIO].

Mr. FAZIO. The gentleman's comments would lead you to believe that we were derelict in our responsibilities. In fact, we did not rescind every dime requested of us by the President, but we actually rescinded more than we were asked to, by \$20 billion, since the Budget Act of 1974 was enacted.

The gentleman would have us believe that the only way we could accommodate the need to rescind spending or use the euphemism we use for line-item veto, is to accommodate the executive branch. The point is, we went beyond the executive branch. We rescinded more money by some \$20 billion during that time frame.

This is not a question of whether we save money. It is a question of whether the Congress reasserts its priorities under the Constitution.

The bottom line is the public has been served. We have rescinded some \$92 billion. We were asked to rescind \$72 billion.

Mr. DERRICK. Mr. Chairman, I yield 1 minute to the distinguished gentleman from South Carolina [Mr. SPRATT].

Mr. SPRATT. Mr. Chairman, I thank the gentleman for yielding.

Let me follow up on what the gentleman from Ohio [Mr. KASICH] just said by saying first of all, there are parts of this amendment that I support, I like, and I think they are improvements upon the base bill that I sponsored. But there is one particular part that I particularly disagree with, and it cuts against the grain of the gentleman's argument.

The gentleman says with this bill, with this amendment, we are going to be able to do a great deal more on the rescission requests sent up here by the President.

One of the things this bill opens up is the opportunity for us to unpack the package that the President sends down here. Because whereas in our bill, the base bill, you would have to vote on the President's request as he sends it, in your bill, on the petition of 15 Members, you can break out individual items. That means Members from large States and powerful members of powerful committees will be able to pick pieces out of this and ensure the President does not get a full all-up vote on the proposal or package he sends up here, and I think that is a weakness in this proposal.

Mr. DERRICK. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I have a great deal of respect for the gentleman from Texas [Mr. STENHOLM].

We all want to cut the budget, at least we think we do, and the American people certainly want it cut.

I have heard mentioned all afternoon that 43 Governors have some form of line-item veto. My Governor of South Carolina is one of them. Very seldom does a Governor of one of these States use a line-item veto to reduce spending. Most of the time they use it for their own pet projects.

When Presidents complain that their vetoes are not strong enough, they forget that 93 percent of all Presidential vetoes in history have been sustained. So neither one of these arguments holds water; we are not going to see some miraculous cutting of the deficit if we pass the Stenholm amendment or the bill.

There is only one way we are going to do what the gentleman from Texas [Mr. STENHOLM] ultimately wants to do and what we all want to do. We either spend less or take in more. That is how to balance a budget. There are no quick fixes. This will not be a quick fix.

Mr. Chairman, the Stenholm amendment has serious flaws. The committee bill is a better product, for the reasons I stated earlier. I ask the Members to vote against the Stenholm amendment and support the committee bill.

The CHAIRMAN. All time has expired. The question is on the amendment in the nature of a substitute offered by the gentleman from Texas [Mr. STENHOLM].

The question was taken; and the Chairman announced that the yeas appeared to have it.

RECORDED VOTE

Mr. STENHOLM. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device and there were—ayes 298, yeas 121, not voting 20, as follows:

Allard	Deutsch	Hutto
Andrews (ME)	Diaz-Balart	Hyde
Andrews (NJ)	Dickey	Inglis
Andrews (TX)	Dicks	Inhofe
Archer	Dooley	Inslee
Armey	Doolittle	Istook
Bacchus (FL)	Dornan	Jacobs
Bachus (AL)	Dreier	Johnson (CT)
Baesler	Duncan	Johnson (GA)
Baker (CA)	Dunn	Johnson (SD)
Baker (LA)	Edwards (TX)	Johnson, Sam
Ballenger	Ehlers	Johnston
Barca	Emerson	Kaptur
Barcia	English	Kasich
Barlow	Everett	Kennedy
Barrett (NE)	Ewing	Kildee
Barrett (WI)	Fawell	Kim
Bartlett	Fingerhut	King
Barton	Ford (TN)	Kingston
Bateman	Fowler	Klecza
Bentley	Franks (CT)	Klein
Bereuter	Franks (NJ)	Klug
Bilbray	Frost	Knollenberg
Bilirakis	Furse	Kolbe
Bishop	Gallegly	Kreidler
Bliley	Gekas	Kyl
Blute	Geren	LaFalce
Boehlert	Gilchrest	Lambert
Boehner	Gillmor	Lancaster
Bonilla	Gilman	Lantos
Browder	Gingrich	LaRocco
Bryant	Glickman	Laughlin
Bunning	Goodlatte	Lazio
Buyer	Goodling	Leach
Byrne	Gordon	Lehman
Callahan	Goss	Levin
Camp	Grams	Levy
Canady	Grandy	Lewis (CA)
Cantwell	Green	Lewis (FL)
Cardin	Greenwood	Lewis (KY)
Castle	Gunderson	Lightfoot
Chapman	Gutierrez	Linder
Clement	Hall (TX)	Livingston
Clinger	Hamilton	Lloyd
Coble	Hancock	Long
Coleman	Hansen	Lucas
Collins (GA)	Harman	Machtley
Combust	Hastert	Maloney
Condit	Hayes	Mann
Cooper	Hefley	Manzullo
Coppersmith	Herger	Margolies-Mezvinsky
Costello	Hoagland	Martinez
Cox	Hobson	Mazzoli
Cramer	Hochbrueckner	McCandless
Crane	Hoekstra	McCollum
Crapo	Hoke	McCrery
Cunningham	Holden	McDade
Danner	Horn	McHale
Darden	Houghton	McHugh
de la Garza	Huffington	McInnis
Deal	Hughes	McKeon
DeFazio	Hunter	McMillan
DeLay	Hutchinson	Meehan

Meyers	Ridge	Spratt
Mica	Roberts	Stearns
Michel	Roemer	Stenholm
Miller (FL)	Rogers	Strickland
Minge	Rohrabacher	Stump
Molinari	Ros-Lehtinen	Stupak
Montgomery	Rose	Sundquist
Moorhead	Roth	Swett
Morella	Roukema	Talent
Murphy	Rowland	Tanner
Myers	Royce	Tauzin
Neal (NC)	Sangmeister	Taylor (MS)
Nussle	Santorum	Taylor (NC)
Orton	Saxton	Thomas (CA)
Oxley	Schaefer	Thornton
Packard	Schenk	Thurman
Pallone	Schiff	Torkildsen
Parker	Schroeder	Torricelli
Paxon	Schumer	Upton
Payne (VA)	Sensenbrenner	Valentine
Penny	Sharp	Visclosky
Peterson (FL)	Shaw	Volkmer
Peterson (MN)	Shays	Vucanovich
Petri	Shepherd	Walker
Pickett	Shuster	Walsh
Pombo	Sisisky	Weldon
Pomeroy	Skaggs	Williams
Porter	Skeen	Wilson
Portman	Skelton	Wise
Poshard	Slaughter	Wolf
Price (NC)	Smith (MI)	Wyden
Pryce (OH)	Smith (NJ)	Wynn
Quinn	Smith (OR)	Young (AK)
Ramstad	Smith (TX)	Young (FL)
Ravenel	Snowe	Zimmer
Regula	Solomon	
Richardson	Spence	

NOES—121

Abercrombie	Dixon	Klink
Ackerman	Durbin	Kopetski
Applegate	Edwards (CA)	Lewis (GA)
Becerra	Engel	Lipinski
Beilenson	Eshoo	Lowey
Bevill	Evans	Manton
Blackwell	Farr	Markey
Bonior	Fazio	Matsui
Borski	Fields (LA)	McCloskey
Boucher	Filner	McDermott
Brewster	Flake	McKinney
Brooks	Foglietta	McNulty
Brown (CA)	Frank (MA)	Meek
Brown (FL)	Gejdenson	Menendez
Brown (OH)	Gephardt	Mfume
Clay	Gibbons	Miller (CA)
Clayton	Gonzalez	Mineta
Clyburn	Hall (OH)	Mink
Collins (IL)	Hamburg	Moakley
Collins (MI)	Hastings	Mollohan
Conyers	Hilliard	Moran
Coyne	Hinchey	Nadler
de Lugo (VI)	Hoyer	Neal (MA)
DeLauro	Jefferson	Norton (DC)
Dellums	Johnson, E. B.	Oberstar
Derrick	Kanjorski	Olver
Dingell	Kennelly	Ortiz

Owens	Sanders	Towns
Pastor	Sarpalius	Traficant
Payne (NJ)	Sawyer	Tucker
Pelosi	Scott	Unsoeld
Pickle	Serrano	Velazquez
Rahall	Smith (IA)	Vento
Rangel	Stark	Waters
Reed	Stokes	Watt
Reynolds	Studds	Waxman
Romero-Barcelo (PR)	Swift	Whitten
Rostenkowski	Synar	Woolsey
Roybal-Allard	Tejeda	Yates
Rush	Thompson	
Sabo	Torres	

NOT VOTING—20

Berman	Ford (MI)	Slattery
Burton	Gallo	Thomas (WY)
Calvert	Hefner	Underwood (GU)
Carr	McCurdy	Washington
Faleomavaega (AS)	Murtha	Wheat
Fields (TX)	Obey	Zeliff
Fish	Quillen	

Messrs. BREWSTER, RANGEL, and HINCHEY, and Mrs. LOWEY changed their vote from "aye" to "no."

Ms. SLAUGHTER and Messrs. DICKS, PETERSON of Florida, RICHARDSON, and COX changed their vote from "no" to "aye."

So the amendment in the nature of a substitute was agreed to. The result of the vote was announced as above recorded.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. SWIFT) having assumed the chair, Mr. DE LA GARZA, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4600) to amend the Congressional Budget and Impoundment Control Act of 1974 to provide for the expedited consideration of certain proposed rescissions of budget authority, pursuant to House Resolution 467, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

The question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. GIBBONS. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 342, noes 69, not voting 23, as follows:

Ackerman	Cunningham	Hansen
Allard	Danner	Harman
Andrews (ME)	Darden	Hastert
Andrews (NJ)	de la Garza	Hayes
Andrews (TX)	Deal	Hefley
Archer	DeFazio	Herger
Armey	DeLauro	Hinchey
Bacchus (FL)	DeLay	Hoagland
Bacchus (AL)	Derrick	Hobson
Baesler	Deutsch	Hochbrueckner
Baker (CA)	Diaz-Balart	Hoekstra
Baker (LA)	Dickey	Hoke
Ballenger	Dicks	Holden
Barca	Dingell	Horn
Barcia	Dooley	Houghton
Barlow	Doolittle	Hoyer
Barrett (NE)	Dornan	Huffington
Barrett (WI)	Dreier	Hughes
Bartlett	Duncan	Hunter
Barton	Dunn	Hutchinson
Bateman	Durbin	Hutto
Bentley	Edwards (TX)	Hyde
Bereuter	Ehlers	Inglis
Bilbray	Emerson	Inhofe
Bilirakis	English	Inslee
Bishop	Eshoo	Istook
Bliley	Everett	Jacobs
Blute	Ewing	Johnson (CT)
Boehlert	Farr	Johnson (GA)
Boehner	Fawell	Johnson (SD)
Bonilla	Fazio	Johnson, E. B.
Boucher	Fields (LA)	Johnson, Sam
Brewster	Fingerhut	Johnston
Brooks	Flake	Kaptur
Browder	Foglietta	Kasich
Brown (CA)	Frank (MA)	Kennedy
Brown (OH)	Franks (CT)	Kildee
Bryant	Franks (NJ)	Kim
Bunning	Frost	King
Buyer	Furse	Kingston
Byrne	Gallegly	Kleczka
Callahan	Gejdenson	Klein
Camp	Gekas	Klug
Canady	Geren	Knollenberg
Cantwell	Gilchrest	Kolbe
Castle	Gillmor	Kreidler
Chapman	Gilman	Kyl
Clement	Gingrich	LaFalce
Clinger	Glickman	Lambert
Clyburn	Goodlatte	Lancaster
Coble	Goodling	Lantos
Coleman	Gordon	LaRocco
Collins (GA)	Goss	Laughlin
Combest	Grams	Lazio
Condit	Grandy	Leach
Cooper	Green	Lehman
Coppersmith	Greenwood	Levin
Costello	Gunderson	Levy
Cox	Gutierrez	Lewis (CA)
Coyne	Hall (OH)	Lewis (FL)
Cramer	Hall (TX)	Lewis (KY)
Crane	Hamilton	Lightfoot
Crapo	Hancock	Linder

Lipinski
 Livingston
 Lloyd
 Long
 Lowey
 Lucas
 Machtley
 Maloney
 Mann
 Manton
 Manzullo
 Margolies-Mezvinsky
 Markey
 Martinez
 Mazzoli
 McCandless
 McCloskey
 McCollum
 McCrery
 McDade
 McHale
 McHugh
 McInnis
 McKeon
 McMillan
 McNulty
 Meehan
 Meyers
 Mica
 Michel
 Miller (CA)
 Miller (FL)
 Mineta
 Minge
 Moakley
 Molinari
 Montgomery
 Moorhead
 Morella
 Murphy
 Myers
 Neal (MA)
 Neal (NC)
 Nussle
 Olver
 Ortiz
 Orton
 Oxley
 Packard
 Pallone
 Parker

Pastor
 Paxon
 Payne (VA)
 Penny
 Peterson (FL)
 Peterson (MN)
 Petri
 Pickett
 Pickle
 Pombo
 Pomeroy
 Porter
 Portman
 Poshard
 Price (NC)
 Pryce (OH)
 Quinn
 Ramstad
 Ravenel
 Regula
 Reynolds
 Richardson
 Ridge
 Roberts
 Roemer
 Rogers
 Rohrabacher
 Ros-Lehtinen
 Rose
 Roth
 Roukema
 Rowland
 Royce
 Sangmeister
 Santorum
 Sarpalius
 Sawyer
 Saxton
 Schaefer
 Schenk
 Schiff
 Schroeder
 Schumer
 Sensenbrenner
 Sharp
 Shaw
 Shays
 Shepherd
 Shuster
 Sisisky
 Skaggs

Skeen
 Skelton
 Slaughter
 Smith (MI)
 Smith (NJ)
 Smith (OR)
 Smith (TX)
 Snowe
 Solomon
 Spence
 Spratt
 Stearns
 Stenholm
 Stokes
 Strickland
 Studds
 Stump
 Stupak
 Sundquist
 Swett
 Talent
 Tanner
 Tauzin
 Taylor (MS)
 Taylor (NC)
 Tejeda
 Thomas (CA)
 Thompson
 Thornton
 Thurman
 Torkildsen
 Torricelli
 Tucker
 Upton
 Valentine
 Visclosky
 Volkmer
 Vucanovich
 Walker
 Walsh
 Weldon
 Whitten
 Williams
 Wilson
 Wise
 Wolf
 Wyden
 Wynn
 Young (AK)
 Young (FL)
 Zimmer

NOES—69

Abercrombie
 Applegate
 Becerra
 Beilenson
 Bevill
 Borski
 Brown (FL)
 Clay
 Clayton
 Collins (IL)
 Collins (MI)
 Conyers
 Dellums

Dixon
 Edwards (CA)
 Engel
 Evans
 Filner
 Gephardt
 Gibbons
 Gonzalez
 Hamburg
 Hastings
 Hilliard
 Jefferson
 Kanjorski

Kennelly
 Klink
 Kopetski
 Lewis (GA)
 Matsui
 McDermott
 McKinney
 Meek
 Menendez
 Mfume
 Mink
 Mollohan
 Moran

Nadler
Oberstar
Owens
Payne (NJ)
Pelosi
Rahall
Rangel
Reed
Rostenkowski
Roybal-Allard

Rush
Sabo
Sanders
Scott
Serrano
Smith (IA)
Stark
Swift
Synar
Torres

Towns
Traficant
Unsoeld
Velazquez
Vento
Waters
Watt
Waxman
Woolsey
Yates

NOT VOTING—23

Berman
Blackwell
Bonior
Burton
Calvert
Cardin
Carr
Fields (TX)

Fish
Ford (MI)
Ford (TN)
Fowler
Gallo
Hefner
McCurdy
Murtha

Obey
Quillen
Slattery
Thomas (WY)
Washington
Wheat
Zeliff

Mrs. KENNELLY, Mr. RUSH, and Mr. DIXON changed their vote from “aye” to “no.”

Mr. OLVER changed his vote from “no” to “aye.”

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mrs. FOWLER. Mr. Speaker, on rollcall No. 329, I was unable to vote due to family obligations back home. Had I been present, I would have voted “yes” on final passage on H.R. 4600.

July 15, 1993

[From the Congressional Record page S9121]

MEASURES REFERRED

The following bill was read the first and second times by unanimous consent and referred as indicated:

H.R. 4600. An Act to amend the Congressional Budget and Impoundment Control Act of 1974 to provide for the expedited consideration of certain proposed rescissions of budget authority; referred jointly, pursuant to the order of August 4, 1977, to the Committee on the Budget, and to the Committee on Governmental Affairs.

PENDING BEFORE THE SENATE FINANCE COMMITTEE

January 21, 1993

[From the Congressional Record pages S540-541]

II

103D CONGRESS
1ST SESSION**S. 102**

To provide for line item veto; capital gains tax reduction; enterprise zones;
raising the social security earnings limit workfare.

IN THE SENATE OF THE UNITED STATES

JANUARY 21 (legislative day, JANUARY 5), 1993

Mr. MACK (for himself, Mr. BOND, Mr. BURNS, Mr. COATS, Mr. D'AMATO, Mr. GRAMM, Mr. CRAIG, Mr. GRASSLEY, Mr. HELMS, Mr. MURKOWSKI, Mr. NICKLES, Mr. SMITH, Mr. THURMOND, Mr. GORTON, Mr. BROWN, Mr. WALLOP, Mr. KEMPTHORNE, Mr. BENNETT, Mr. LOTT, Mr. DOLE, and Mr. COVERDELL) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To provide for line item veto; capital gains tax reduction;
enterprise zones; raising the social security earnings limit
workfare.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **TITLE I—LINE-ITEM VETO**

4 **SEC. 101. ENHANCEMENT OF SPENDING CONTROL BY THE**
5 **PRESIDENT.**

6 The Impoundment Control Act of 1974 is amended
7 by adding at the end thereof the following new title:

2

1 "TITLE XI—LEGISLATIVE LINE ITEM VETO
2 RESCISSION AUTHORITY

3 "PART A—LEGISLATIVE LINE ITEM VETO RESCISSION
4 AUTHORITY

5 "GRANT OF AUTHORITY AND CONDITIONS

6 "SEC. 1101. (a) IN GENERAL.—(1) Notwithstanding
7 part B of title X and subject to part B of this title, the
8 President may rescind all or part of any budget authority,
9 if the President—

10 "(A) determines that—

11 "(i) such rescission would help balance the
12 Federal budget, reduce the Federal budget defi-
13 cit, or reduce the public debt;

14 "(ii) such rescission will not impair any es-
15 sential Government functions; and

16 "(iii) such rescission will not harm the na-
17 tional interest; and

18 "(B)(i) notifies the Congress of such rescission
19 by a special message not later than 20 calendar days
20 (not including Saturdays, Sundays, or holidays)
21 after the date of enactment of a regular or supple-
22 mental appropriations Act or a joint resolution mak-
23 ing continuing appropriations providing such budget
24 authority; or

1 “(ii) notifies the Congress of such rescission by
2 special message accompanying the submission of the
3 President’s budget to Congress and such rescissions
4 have not been proposed previously for that fiscal
5 year.

6 “(2) The President shall submit a separate rescission
7 message for each appropriations bill under paragraph
8 (1)(B)(ii).

9 “(b) RESCISSION EFFECTIVE UNLESS DIS-
10 APPROVED.—(1)(A) Any amount of budget authority re-
11 scinded under this title as set forth in a special message
12 by the President shall be deemed canceled unless, during
13 the period described in subparagraph (B), a rescission dis-
14 approval bill making available all of the amount rescinded
15 is enacted into law.

16 “(B) The period referred to in subparagraph (A) is—

17 “(i) a Congressional review period of 20 cal-
18 endar days of session under part B, during which
19 Congress must complete action on the rescission dis-
20 approval bill and present such bill to the President
21 for approval or disapproval;

22 “(ii) after the period provided in clause (i), an
23 additional 10 days (not including Sundays) during
24 which the President may exercise his authority to
25 sign or veto the rescission disapproval bill; and

1 “(iii) if the President vetoes the rescission dis-
 2 approval bill during the period described in clause
 3 (ii), an additional 5 calendar days of session after
 4 the date of the veto.

5 “(2) If a special message is transmitted by the Presi-
 6 dent under this section during any Congress and the last
 7 session of such Congress adjourns sine die before the expi-
 8 ration of the period described in paragraph (1)(B)—

9 “(A) the rescission shall not take effect;

10 “(B) the message shall be deemed to have been
 11 retransmitted on the first day of the succeeding
 12 Congress; and

13 “(C) the review period described in paragraph
 14 (1)(B) (with respect to such message) shall run be-
 15 ginning after such first day.

16 “DEFINITIONS

17 “SEC. 1102. For the purposes of this title, the term
 18 ‘rescission disapproval bill’ means a bill or joint resolution
 19 which only disapproves a rescission of budget authority,
 20 in whole, rescinded in a special message transmitted by
 21 the President under section 1101.

22 “PART B—CONGRESSIONAL CONSIDERATION OF 23 LEGISLATIVE LINE ITEM VETO RESCISSIONS

24 “PRESIDENTIAL SPECIAL MESSAGE

25 “SEC. 1111. When the President rescinds any budget
 26 authority as provided in section 1101, the President shall

1 transmit to the House of Representatives and to the Sen-
2 ate a special message specifying—

3 “(1) the amount of budget authority rescinded;

4 “(2) any account, department, or establishment
5 of the Government to which such budget authority
6 is available for obligation, and the specific project or
7 governmental functions involved;

8 “(3) the reasons and justifications for the de-
9 termination to rescind budget authority pursuant to
10 section 1101(a)(1);

11 “(4) to the maximum extent practicable, the es-
12 timated fiscal, economic, and budgetary effect of the
13 rescission; and

14 “(5) all facts, circumstances, and considerations
15 relating to or bearing upon the rescission and the
16 decision to effect the rescission, and to the maxi-
17 mum extent practicable, the estimated effect of the
18 rescission upon the objects, purposes, and programs
19 for which the budget authority is provided.

20 “TRANSMISSION OF MESSAGES; PUBLICATION

21 “SEC. 1112. (a) DELIVERY TO HOUSE AND SEN-
22 ATE.—(1) Each special message transmitted under sec-
23 tions 1101 and 1111 shall be transmitted to the House
24 of Representatives and the Senate on the same day, and
25 shall be delivered to the Clerk of the House of Representa-
26 tives if the House of Representatives is not in session and

1 to the Secretary of the Senate if the Senate is not in ses-
2 sion.

3 “(2) Each special message transmitted pursuant to
4 paragraph (1) shall be referred to the appropriate commit-
5 tees of the House of Representatives and the Senate and
6 shall be printed as a document of each House.

7 “(b) PRINTING IN FEDERAL REGISTER.—A special
8 message transmitted under sections 1101 and 1111 shall
9 be printed in the first issue of the Federal Register pub-
10 lished after such transmittal.

11 “PROCEDURE IN SENATE

12 “SEC. 1113. (a) REFERRAL.—(1) Any rescission dis-
13 approval bill introduced with respect to a special message
14 shall be referred to the appropriate committees of the
15 House of Representatives or the Senate, as the case may
16 be.

17 “(2) Any rescission disapproval bill received in the
18 Senate from the House of Representatives shall be consid-
19 ered in the Senate pursuant to this section.

20 “(b) FLOOR CONSIDERATION IN THE SENATE.—

21 “(1) Debate in the Senate on any rescission dis-
22 approval bill and debatable motions and appeals in
23 connection therewith, shall be limited to not more
24 than 10 hours, with the time equally divided be-
25 tween, and controlled by, the majority leader and the
26 minority leader or their designees.

1 “(2)(A) Debate in the Senate on any debatable
2 motion or appeal in connection with such a bill shall
3 be limited to 1 hour equally divided between, and
4 controlled by, the mover and the manager of the bill,
5 except that if the manager of the bill is in favor of
6 any such motion or appeal, the time in opposition
7 thereto shall be controlled by the minority leader or
8 the minority leader’s designee.

9 “(B) Such leaders, or either of them, may, from
10 the time under their control on the passage of the
11 bill, allot additional time to any Senator during the
12 consideration of any debatable motion or appeal.

13 “(3) A motion to further limit debate shall not
14 be debatable, and a motion to recommit (except a
15 motion to recommit with instructions to report back
16 within a specified number of days, not to exceed 1,
17 not counting any day on which the Senate is not in
18 session) shall not be in order.

19 “(c) POINT OF ORDER.—(1) It shall not be in order
20 in the Senate or the House of Representatives to consider
21 any rescission disapproval bill that relates to any matter
22 other than the rescission of budget authority transmitted
23 by the President under section 1101.

1 “(2) It shall not be in order in the Senate or the
2 House of Representatives to consider any amendment to
3 a rescission disapproval bill.

4 “(3) Paragraphs (1) and (2) may be waived or sus-
5 pended in the Senate only by a vote of three-fifths of the
6 members duly chosen and sworn.”.

7 **TITLE II—CAPITAL GAINS**

8 **SEC. 201. DEDUCTION FOR CAPITAL GAINS ON CERTAIN** 9 **SMALL BUSINESS STOCK.**

10 (a) IN GENERAL.—Subchapter P of chapter 1 of the
11 Internal Revenue Code of 1986 (relating to capital gains
12 and losses) is amended by adding at the end thereof the
13 following new part:

14 **“PART VII—ENTERPRISE CAPITAL INVESTMENT** 15 **INCENTIVES**

“Sec. 1301. Deduction for gain on certain small business stock.
“Sec. 1302. Definitions and special rules.

16 **“SEC. 1301. DEDUCTION FOR GAIN ON CERTAIN SMALL** 17 **BUSINESS STOCK.**

18 “(a) GENERAL RULE.—If a taxpayer has a qualified
19 small business net capital gain for any taxable year, there
20 shall be allowed as a deduction from gross income an
21 amount equal to the sum of—

22 “(1) 50 percent of the excess (if any) of—

23 “(A) qualified small business net capital
24 gain, over

1 “(B) the amount of seed capital gain, plus

2 “(2) the seed capital gain deduction.

3 “(b) QUALIFIED SMALL BUSINESS NET CAPITAL
4 GAIN.—For purposes of this section, the term ‘qualified
5 small business net capital gain’ means the lesser of—

6 “(1) the net capital gain for the taxable year,
7 or

8 “(2) the net capital gain for the taxable year
9 determined by taking into account only gain or loss
10 from sales or exchanges of qualified small business
11 stock with a holding period of more than 5 years at
12 the time of sale or exchange.

13 “(c) SEED CAPITAL GAIN DEDUCTION.—For pur-
14 poses of this section—

15 “(1) IN GENERAL.—The term ‘seed capital gain
16 deduction’ means an amount equal to the sum of the
17 amounts determined by applying the applicable per-
18 centages to the appropriate categories of seed capital
19 gain under the table contained in paragraph (2).

20 “(2) COMPUTATION OF AMOUNT.—The seed
21 capital gain deduction shall be computed as follows:

“In the case of:	The applicable percentage is:
5-year gain	50
6-year gain	60
7-year gain	70
8-year gain	80
9-year gain	90
10-year gain	100.

1 “(3) SEED CAPITAL GAIN.—For purposes of
2 this subsection, the term ‘seed capital gain’ means
3 the lesser of—

4 “(A) the excess (if any) of—

5 “(i) the net capital gain for the tax-
6 able year, over

7 “(ii) the qualified small business net
8 capital gain for the taxable year deter-
9 mined without regard to gain or loss de-
10 scribed in subparagraph (B), or

11 “(B) the net capital gain for the taxable
12 year determined by taking into account only
13 gain or loss from sales or exchanges of stock—

14 “(i) which is qualified small business
15 stock in a corporation which is a qualified
16 small business (determined by substituting
17 ‘\$5,000,000’ for ‘\$100,000,000’ in section
18 1302(b)(1)), and

19 “(ii) with a holding period of more
20 than 5 years at the time of the sale or ex-
21 change.

22 “(4) CATEGORIES OF GAIN.—For purposes of
23 this subsection—

24 “(A) 10-YEAR GAIN.—The term ‘10-year
25 gain’ means the lesser of—

11

1 “(i) the seed capital gain, or

2 “(ii) the seed capital gain determined
3 by taking into account under paragraph
4 (3)(B) only gain or loss from qualified
5 small business stock with a holding period
6 of more than 10 years at the time of the
7 sale or exchange.

8 “(B) OTHER GAIN.—The terms ‘5-, 6-,
9 7-, 8-, and 9-year gain’ mean, with respect to
10 any category, the lesser of—

11 “(i) the excess (if any) of—

12 “(I) seed capital gain, over

13 “(II) the amount determined
14 under this paragraph for categories
15 with a longer holding period, or

16 “(ii) seed capital gain determined by
17 taking into account under paragraph
18 (3)(B) only gain or loss from qualified
19 small business stock with a holding period
20 of more than 5, 6, 7, 8, or 9 years but not
21 more than 6, 7, 8, 9, or 10 years, respec-
22 tively.

23 “(d) ESTATES AND TRUSTS.—In the case of an es-
24 tate or trust, the deduction under subsection (a) shall be
25 computed by excluding the portion (if any) of the gains

1 for the taxable year from sales or exchanges of qualified
2 small business stock which, under section 652 and 662
3 (relating to inclusions of amounts in gross income of bene-
4 ficiaries of trusts), is includible by the income beneficiaries
5 as gains derived from the sale or exchange of capital as-
6 sets.

7 **“SEC. 1302. DEFINITIONS AND SPECIAL RULES.**

8 “(a) **QUALIFIED SMALL BUSINESS STOCK.**—For pur-
9 poses of this part—

10 “(1) **IN GENERAL.**—The term ‘qualified small
11 business stock’ means any stock in a corporation
12 which is originally issued after December 31, 1991,
13 if—

14 “(A) as of the date of issuance, such cor-
15 poration is a qualified small business, and

16 “(B) except as provided in subsections (d)
17 and (e), such stock is acquired by the taxpayer
18 at its original issue (directly or through an un-
19 derwriter)—

20 “(i) in exchange for money or other
21 property (not including stock), or

22 “(ii) as compensation for services
23 (other than services performed as an un-
24 derwriter of such stock).

1 “(2) 5-YEAR ACTIVE BUSINESS REQUIRE-
2 MENT.—Stock in a corporation shall not be treated
3 as qualified small business stock unless, during the
4 testing period, such corporation meets the active
5 business requirements of subsection (c).

6 “(3) CERTAIN REDEMPTIONS, EXCHANGES,
7 ETC. DISQUALIFIED.—For purposes of paragraph
8 (1)(B), and except as provided in subsections (d)
9 and (e), stock shall not be treated as acquired by the
10 taxpayer at its original issue if—

11 “(i) it is issued directly or indirectly in re-
12 demption of, or otherwise in exchange for, stock
13 which is not qualified small business stock, or

14 “(ii) it is issued in an exchange described
15 in section 351 in exchange for property other
16 than qualified small business stock, if imme-
17 diately after the exchange, both the issuer and
18 transferee of the stock are members of the
19 same controlled group of corporations (as de-
20 fined in section 1563).

21 “(b) QUALIFIED SMALL BUSINESS.—For purposes of
22 this part—

23 “(1) IN GENERAL.—The term ‘qualified small
24 business’ means any domestic corporation with re-
25 spect to which the sum of—

“(A) the aggregate amount of money, other property, and services received by the corporation for stock, as a contribution to capital, and as paid-in surplus, plus

“(B) the accumulated earnings and profits of the corporation,

does not exceed \$100,000,000. The determination under the preceding sentence shall be made as of the time of such issuance but shall include amounts received in such issuance and all prior issuances.

“(2) AMOUNT TAKEN INTO ACCOUNT WITH RESPECT TO PROPERTY AND SERVICES.—For purposes of paragraph (1)—

“(A) PROPERTY.—The amount taken into account with respect to any property other than money shall be an amount equal to the adjusted basis of such property for determining gain, reduced (but not below zero) by any liability to which the property was subject or which was assumed by the corporation. The determination under the preceding sentence shall be made as of the time the property was received by the corporation.

“(B) COMPENSATION FOR SERVICES.—The amount taken into account with respect to stock

1 issued for services shall be the value of such
2 services.

3 “(c) ACTIVE BUSINESS REQUIREMENT.—For pur-
4 poses of this part—

5 “(1) IN GENERAL.—For purposes of subsection
6 (a)(2), the requirements of this subsection are met
7 if, during the testing period—

8 “(A) the corporation is engaged in the ac-
9 tive conduct of a trade or business, and

10 “(B) substantially all of the assets of such
11 corporation are used in the active conduct of a
12 trade or business.

13 “(2) SPECIAL RULE FOR CERTAIN ACTIVI-
14 TIES.—For purposes of paragraph (1), if, in connec-
15 tion with any future trade or business, a corporation
16 is engaged in—

17 “(A) start-up activities described in section
18 195(c)(1)(A),

19 “(B) activities resulting in the payment or
20 incurring of expenditures which may be treated
21 as research and experimental expenditures
22 under section 174, or

23 “(C) activities with respect to in-house re-
24 search expenses described in section 41(b)(4),

1 such corporation shall be treated with respect to
2 such activities as engaged in (and assets used in
3 such activities shall be treated as used in) the active
4 conduct of a trade or business. Any determination
5 under this paragraph shall be made without regard
6 to whether a corporation has any gross income from
7 such activities at the time of the determination.

8 “(3) STOCK IN OTHER CORPORATIONS.—

9 “(A) LOOK-THRU IN CASE OF SUBSIDI-
10 ARIES.—For purposes of this subsection, stock
11 and debt in any subsidiary corporation shall be
12 disregarded and the parent corporation shall be
13 deemed to own its ratable share of the subsidi-
14 ary’s assets, and to conduct its ratable share of
15 the subsidiary’s activities.

16 “(B) PORTFOLIO STOCK.—A corporation
17 shall be treated as failing to meet the require-
18 ments of paragraph (1) if, at any time during
19 the testing period, more than 10 percent of the
20 value of its assets (in excess of liabilities) con-
21 sist of stock in other corporations which are not
22 subsidiaries of such corporation.

23 “(C) SUBSIDIARY.—For purposes of this
24 paragraph, a corporation shall be considered a
25 subsidiary if the parent owns at least 50 per-

1 cent of the combined voting power of all classes
2 of stock entitled to vote, or at least 50 percent
3 in value of all outstanding stock of such cor-
4 poration.

5 “(4) WORKING CAPITAL.—For purposes of
6 paragraph (1)(B), any assets which—

7 “(A) are held for investment, and

8 “(B) are to be used to finance future re-
9 search and experimentation or working capital
10 needs of the corporation,

11 shall be treated as used in the active conduct of a
12 trade or business.

13 “(5) MAXIMUM REAL ESTATE HOLDINGS.—A
14 corporation shall not be treated as meeting the re-
15 quirements of paragraph (1) if, at any time during
16 the testing period, more than 10 percent of the total
17 value of its assets is real property which is not used
18 in the active conduct of a trade or business. For
19 purposes of the preceding sentence, the ownership
20 of, dealing in, or renting of real property shall not
21 be treated as the active conduct of a trade or busi-
22 ness.

23 “(6) SMALL BUSINESS INVESTMENT COMPA-
24 NIES.—Paragraph (1) shall not apply to any small

1 business investment company operating under the
2 Small Business Investment Act of 1958.

3 “(7) COMPUTER SOFTWARE ROYALTIES.—For
4 purposes of paragraph (1), rights to computer soft-
5 ware which produces income described in section
6 543(d) shall be treated as an asset used in the active
7 conduct of a trade or business.

8 “(8) TESTING PERIOD.—For purposes of this
9 section, the term ‘testing period’ means, with respect
10 to any stock held by a taxpayer, the 5-year period
11 beginning with the first day of the taxpayer’s hold-
12 ing period for such stock.

13 “(d) SPECIAL RULES FOR OPTIONS, WARRANTS, AND
14 CERTAIN CONVERTIBLE INVESTMENTS.— For purposes
15 of this part—

16 “(1) IN GENERAL.—In the case of stock which
17 is acquired by the taxpayer through the exercise of
18 an applicable option or warrant, through the conver-
19 sion of convertible debt, or in exchange for securities
20 of the corporation in a transaction described in sec-
21 tion 368—

22 “(A) such stock shall be treated as ac-
23 quired by the taxpayer at original issue, and

24 “(B) such stock shall be treated as having
25 been held during the period such option, war-

1 rant, or debt was held, or such security was
2 outstanding.

3 “(2) ISSUE PRICE FOR CONVERTIBLE DEBT OR
4 SECURITY.—For purposes of section 1302(b)(1) and
5 notwithstanding section 1302(b)(2), in the case of a
6 debt instrument converted to stock, or stock issued
7 in exchange for securities in a transaction described
8 in section 368, such stock shall be treated as issued
9 for an amount equal to the sum of—

10 “(A) the principal amount of the debt or
11 security as of the time of the conversion or ex-
12 change, and

13 “(B) accrued but unpaid interest on such
14 loan or security.

15 “(3) APPLICABLE OPTION OR WARRANT.—For
16 purposes of this subsection, the term ‘applicable op-
17 tion or warrant’ means an option or warrant
18 which—

19 “(A) was issued in exchange for the per-
20 formance of services for the corporation issuing
21 it, and

22 “(B) is nontransferrable.

23 “(c) CERTAIN TAX-FREE AND OTHER TRANSFERS.—

24 For purposes of this part—

1 “(1) IN GENERAL.—In the case of a transfer of
2 stock to which this subsection applies, the transferee
3 shall be treated as—

4 “(A) having acquired such stock in the
5 same manner as the transferor, and

6 “(B) having held such stock during any
7 continuous period immediately preceding the
8 transfer during which it was held (or treated as
9 held under this subsection) by the transferor.

10 “(2) TRANSFERS TO WHICH SUBSECTION AP-
11 PLIES.—This subsection shall apply to any
12 transfer—

13 “(A) by gift,

14 “(B) at death,

15 “(C) to the extent that the basis of the
16 property in the hands of the transferee is deter-
17 mined by reference to the basis of the property
18 in the hands of the transferor by reason of sec-
19 tion 334(b), 723, or 732, or

20 “(D) of qualified small business stock for
21 other qualified small business stock in a trans-
22 action described in section 351 or a reorganiza-
23 tion described in section 368.

24 “(3) INCORPORATIONS AND REORGANIZATIONS
25 INVOLVING NONQUALIFIED STOCK.—

21

1 “(A) IN GENERAL.—In the case of a trans-
2 action described in section 351 or a reorganiza-
3 tion described in section 368, if a qualified
4 small business stock is transferred for other
5 stock which is not qualified small business
6 stock, such transfer shall be treated as a trans-
7 fer to which this subsection applies solely with
8 respect to the person receiving such other stock.

9 “(B) LIMITATION.—This part shall apply
10 to the sale or exchange of stock treated as
11 qualified small business stock by reason of sub-
12 paragraph (A) only to the extent of the gain (if
13 any) which would have been recognized at the
14 time of the transfer described in subparagraph
15 (A) if section 351 or 368 had not applied at
16 such time.

17 “(C) SUCCESSIVE APPLICATION.—For pur-
18 poses of this paragraph, stock treated as quali-
19 fied small business stock under subparagraph
20 (A) shall be so treated for subsequent trans-
21 actions or reorganizations, except that the limi-
22 tation of subparagraph (B) shall be applied as
23 of the time of the first transfer to which sub-
24 paragraph (A) applied.

1 “(D) CONTROL TEST.—Except in the case
2 of a transaction described in section 368, this
3 paragraph shall apply only if, immediately after
4 the transaction, the corporation issuing the
5 stock owns directly or indirectly stock rep-
6 resenting control (within the meaning of section
7 368(c)) of the corporation whose stock was
8 transferred.

9 “(f) STOCK EXCHANGED FOR PROPERTY.—For pur-
10 poses of this part, in the case where the taxpayer transfers
11 property (other than money or stock) to a corporation in
12 exchange for stock in such corporation—

13 “(1) such stock shall be treated as having been
14 acquired by the taxpayer on the date of such ex-
15 change, and

16 “(2) the basis of such stock in the hands of the
17 taxpayer shall be treated as equal to the fair market
18 value of the property exchanged.

19 “(g) PASS-THRU ENTITIES.—For purposes of this
20 part, any gain or loss of a pass-thru entity which is treated
21 for purposes of this subtitle as a gain or loss of any person
22 holding an interest in such entity shall retain its character
23 as qualified small business or seed capital gain or loss in
24 the hands of such person.

23

1 “(h) INDEXING.—In the case of any stock issued in
 2 a calendar year after 1992, the \$5,000,000 and
 3 \$100,000,000 amounts in section 1301(c)(3)(B)(i) and
 4 subsection (b)(1) of this section shall be increased by an
 5 amount equal to—

6 “(1) such dollar amount, multiplied by

7 “(2) the cost-of-living adjustment determined
 8 under section 1(f)(3) for such calendar year by sub-
 9 stituting ‘1991’ for ‘1987’ in subparagraph (B)
 10 thereof.”.

11 (b) MAXIMUM 14 PERCENT TAX RATE.—

12 (1) INDIVIDUALS.—Section 1(h) of such Code
 13 (relating to maximum capital gains rate) is amended
 14 to read as follows:

15 “(h) MAXIMUM CAPITAL GAINS RATE.—

16 “(1) IN GENERAL.—If a taxpayer has a net
 17 capital gain for any taxable year, then the tax im-
 18 posed by this section shall not exceed the sum of—

19 “(A) a tax computed at the rate and in the
 20 same manner as if this subsection had not been
 21 enacted on the greater of—

22 “(i) taxable income reduced by the
 23 amount of the net capital gain, or

24 “(ii) the amount of taxable income
 25 taxed at a rate below 28 percent, plus

24

1 “(B) a tax of 28 percent of the amount of
2 taxable income in excess of the amount deter-
3 mined under subparagraph (A).

4 “(2) SPECIAL RULE WHERE TAXPAYER HAS
5 QUALIFIED SMALL BUSINESS NET CAPITAL OR SEED
6 CAPITAL GAIN.—

7 “(A) IN GENERAL.—If a taxpayer has
8 qualified small business net capital gain or seed
9 capital gain for any taxable year, then the tax
10 imposed by this section shall not exceed the
11 lesser of—

12 “(i) the amount determined under
13 paragraph (1), or

14 “(ii) the sum of—

15 “(I) the amount determined
16 under paragraph (1) without taking
17 into account qualified small business
18 net capital gain and seed capital gain
19 for purposes of subparagraphs (A)
20 and (B) thereof, plus

21 “(II) 14 percent of the qualified
22 small business net capital gain and
23 seed capital gain.

24 “(B) DEFINITIONS.—For purposes of this
25 paragraph, the terms ‘qualified small business

net capital gain' and 'seed capital gain' have the meanings given such terms by section 1301 (b) and (c), respectively.”.

(2) CORPORATIONS.—Section 1201(a) of such Code (relating to alternative tax for corporations) is amended—

(A) by inserting “or the corporation has a qualified small business net capital gain or seed capital gain” before “, then”, and

(B) by striking paragraph (2) and inserting:

“(2) a tax equal to the sum of—

“(A) 34 percent of the sum of the net capital gain, reduced by qualified small business net capital gain and seed capital gain, plus

“(B) 17 percent of the qualified small business net capital gain and seed capital gain.”.

(c) TREATMENT AS PREFERENCE ITEM FOR MINIMUM TAX.—Section 57(a) of such Code (relating to items of tax preference under the alternative minimum tax) is amended by adding at the end thereof the following new paragraph:

“(8) CAPITAL GAINS ON SALE OF CERTAIN SMALL BUSINESS STOCK.—An amount equal to the

1 deduction for the taxable year determined under sec-
2 tion 1301(a)(1).”.

3 (d) LOSSES ON SMALL BUSINESS STOCK.—Section
4 1244(c)(3)(A) of such Code (defining small business cor-
5 poration) is amended by striking “\$1,000,000” and insert-
6 ing “\$5,000,000 (adjusted at the same time and manner
7 as under section 1302(g))”.

8 (e) CONFORMING AMENDMENTS.—

9 (1) Section 62(a) of such Code is amended by
10 adding after paragraph (13) the following new para-
11 graph:

12 “(14) LONG-TERM CAPITAL GAINS.—The deduc-
13 tion allowed by section 1301.”.

14 (2) Subparagraph (B) of section 170(e)(1) of
15 such Code is amended by inserting “(or, in the case
16 of qualified small business stock under section 1301,
17 50 percent of the amount)” after “the amount”.

18 (3) Section 172(d)(2) of such Code is amended
19 to read as follows:

20 “(2) CAPITAL GAINS AND LOSSES OF TAX-
21 PAYERS OTHER THAN CORPORATIONS.—In the case
22 of a taxpayer other than a corporation—

23 “(A) the amount deductible on account of
24 losses from sales or exchanges of capital assets
25 shall not exceed the amount includible on ac-

count of gains from sales or exchanges of capital assets; and

“(B) the deduction for long-term capital gains provided by section 1301 shall not be allowed.”.

(4) Subparagraph (B) of section 172(d)(4) of such Code is amended by inserting “, (2)(B),” after “paragraph (1)”.

(5)(A) Section 220 of such Code is amended to read as follows:

“SEC. 220. CROSS REFERENCES.

“(1) For deduction for long-term capital gains in the case of sale of qualified small business stock, see section 1301.

“(2) For deductions in respect of a decedent, see section 691.”.

(B) The table of sections for part VII of subchapter B of chapter 1 of such Code is amended by striking out “reference” in the item relating to section 220 and inserting “references”.

(6) Paragraph (4) of section 642(c) of such Code is amended to read as follows:

“(4) ADJUSTMENTS.—To the extent that the amount otherwise allowable as a deduction under this subsection consists of gain from the sale or ex-

1 change of qualified small business stock held for
2 more than 5 years, proper adjustment shall be made
3 for any deduction allowable to the estate or trust
4 under section 1301 (relating to deduction for excess
5 of capital gains over capital losses). In the case of
6 a trust, the deduction allowed by this subsection
7 shall be subject to section 681 (relating to unrelated
8 business income).”.

9 (7) Paragraph (3) of section 643(a) of such
10 Code is amended by adding at the end thereof the
11 following new sentence: “The deduction under sec-
12 tion 1301 (relating to deduction for gain on quali-
13 fied small business stock) shall not be taken into ac-
14 count.”.

15 (8) Paragraph (4) of section 691(c) of such
16 Code is amended by striking out “1(h), 1201, and
17 1211” and inserting in lieu thereof “1(h), 1201,
18 1211, and 1301, and for purposes of section
19 57(a)(8)”.

20 (9) Clause (iii) of section 852(b)(3)(D) of such
21 Code is amended by striking out “66 percent” and
22 inserting “the rate differential portion (within the
23 meaning of section 904(b)(3)(E))”.

24 (10) The second sentence of paragraph (2) of
25 section 871(a) of such Code is amended by inserting

1 “such gains and losses shall be determined without
2 regard to section 1301 (relating to deduction for
3 qualified small business net capital gains) and” after
4 “except that”.

5 (11) Section 1402(i)(1) of such Code is amend-
6 ed to read as follows:

7 “(1) IN GENERAL.—In determining the net
8 earnings from self-employment of any options dealer
9 or commodities dealer—

10 “(A) notwithstanding subsection (a)(3)(A),
11 there shall not be excluded any gain or loss (in
12 the normal course of the taxpayer’s activity of
13 dealing in or trading section 1256 contracts)
14 from section 1256 contracts or property related
15 to such contracts, and

16 “(B) the deduction provided by section
17 1301 shall not apply.”.

18 (12) Section 1445(e)(1) of such Code is amend-
19 ed by striking out “34 percent (or, to the extent pro-
20 vided in regulations, 28 percent)” and inserting “34
21 percent (or, to the extent provided in regulations,
22 the alternative tax rate determined under section
23 904(b)(3)(E)(iii))”.

24 (f) EFFECTIVE DATE.—

1 (1) IN GENERAL.—The amendments made by
2 this section shall apply to stock issued after Decem-
3 ber 31, 1993.

4 (2) APPLICATION OF TAX INCENTIVE TO CUR-
5 RENT STOCK HOLDINGS OF INVESTORS.—

6 (A) IN GENERAL.—If—

7 (i) a taxpayer holds any stock on any
8 date on or after the date determined under
9 paragraph (1) which, at the time it was is-
10 sued, would be treated as qualified small
11 business stock (as defined in section
12 1302(a) of the Internal Revenue Code of
13 1986) without regard to the time it was is-
14 sued, and

15 (ii) the value of such stock on such
16 date exceeds its adjusted basis,
17 the taxpayer may elect to treat such stock as
18 having been sold on such date for an amount
19 equal to its value on such date (and as having
20 been reacquired on such date for an amount
21 equal to such value). The gain from such sale
22 shall be treated as received or accrued (and the
23 holding period of the reacquired stock shall be
24 treated as beginning) on such date. For pur-
25 poses of applying section 1301 of such Code,

1 such stock shall be treated after such reacquisi-
2 tion as acquired in the same manner and at the
3 same time as the original acquisition and the
4 requirement of section 1302(a)(1) that the
5 stock must have been issued after December
6 31, 1993, shall not apply.

7 (B) ELECTION.—An election under sub-
8 paragraph (A) with respect to any stock shall
9 be made in such manner as the Secretary may
10 prescribe. Such an election, once made with re-
11 spect to any stock, shall be irrevocable.

12 **TITLE III—SOCIAL SECURITY**

13 **EARNINGS TEST**

14 **SEC. 301. RETIREMENT TEST EXEMPT AMOUNT INCREASED.**

15 (a) IN GENERAL.—Section 203(f)(8)(D) of the Social
16 Security Act (42 U.S.C. 403(f)(8)(D)) is amended to read
17 as follows:

18 “(D) Notwithstanding any other provision of this
19 subsection, the exempt amount which is applicable to an
20 individual who has attained retirement age (as defined in
21 section 216(l)) before the close of the taxable year involved
22 shall be—

23 “(i) \$925 for each month of any taxable year
24 ending after 1992 and before 1994,

1 “(ii) \$1,020 for each month of any taxable year
2 ending after 1993 and before 1995,

3 “(iii) \$1,130 for each month of any taxable
4 year ending after 1994 and before 1996,

5 “(iv) \$1,450 for each month of any taxable year
6 ending after 1995 and before 1997,

7 “(v) \$1,750 for each month of any taxable year
8 ending after 1996 and before 1998,

9 “(vi) \$2,250 for each month of any taxable year
10 ending after 1997 and before 1999,

11 “(vii) \$2,670 for each month of any taxable
12 year ending after 1998 and before 2000,

13 “(viii) \$3,500 for each month of any taxable
14 year ending after 1999 and before 2001, and

15 “(ix) \$4,250 for each month of any taxable year
16 ending after 2000 and before 2002.”.

17 (b) CONFORMING AMENDMENT.—Section
18 203(f)(8)(B)(ii)(II) of such Act (42 U.S.C.
19 403(f)(8)(B)(ii)(II)) is amended by striking “for the cal-
20 endar year before the most recent calendar year in which
21 an increase in the exempt amount was enacted or a deter-
22 mination resulting in such an increase was made under
23 subparagraph (A)” and inserting “for the second calendar
24 year before the calendar year in which the determination
25 under subparagraph (A) is made”.

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to taxable years ending after De-
3 cember 31, 1992.

4 **SEC. 302. REDUCTION FACTOR WITH RESPECT TO CERTAIN**
5 **EARNINGS LOWERED TO 25 PERCENT.**

6 (a) IN GENERAL.—Section 203(f)(3) of the Social
7 Security Act (42 U.S.C. 403(f)(3)) is amended by striking
8 “33⅓ percent” and all that follows through “paragraph
9 (8)” and inserting “equal to the sum of (A) 25 percent
10 of so much of his earnings for such year in excess of the
11 product of the applicable exempt amount as determined
12 under paragraph (8) as does not exceed \$5,000, and (B)
13 33⅓ percent of so much of such earnings in excess of
14 such product as exceeds \$5,000,”.

15 (b) EFFECTIVE DATE.—The amendment made by
16 subsection (a) shall apply to taxable years beginning after
17 December 31, 1997.

18 **TITLE IV—URBAN TAX ENTER-**
19 **PRISE ZONES AND RURAL DE-**
20 **VELOPMENT INVESTMENT**
21 **ZONES**

22 **SEC. 401. STATEMENT OF PURPOSE.**

23 It is the purpose of this title to establish a demonstra-
24 tion program of providing incentives for the creation of
25 tax enterprise zones in order—

(1) to revitalize economically and physically distressed areas, primarily by encouraging the formation of new businesses and the retention and expansion of existing businesses,

(2) to promote meaningful employment for tax enterprise zone residents, and

(3) to encourage individuals to reside in the tax enterprise zones in which they are employed.

Subtitle A—Designation and Tax Incentives

SEC. 411. DESIGNATION AND TREATMENT OF URBAN TAX ENTERPRISE ZONES AND RURAL DEVELOPMENT INVESTMENT ZONES.

(a) IN GENERAL.—Chapter 1 of the Internal Revenue Code of 1986 (relating to normal taxes and surtaxes) is amended by inserting after subchapter T the following new subchapter:

“Subchapter U—Designation and Treatment of Tax Enterprise Zones

“Part I. Designation of tax enterprise zones.

“Part II. Incentives for tax enterprise zones.

“PART I—DESIGNATION OF TAX ENTERPRISE ZONES

“Sec. 1391. Designation procedure.

“Sec. 1392. Eligibility and selection criteria.

“Sec. 1393. Definitions and special rules.

1 **"SEC. 1391. DESIGNATION PROCEDURE.**

2 “(a) IN GENERAL.—For purposes of this title, the
3 term ‘tax enterprise zone’ means any area which is, under
4 this part—

5 “(1) nominated by 1 or more local governments
6 and the State in which it is located for designation
7 as a tax enterprise zone, and

8 “(2) designated by—

9 “(A) the Secretary of Housing and Urban
10 Development in the case of an urban tax enter-
11 prise zone, or

12 “(B) the Secretary of Agriculture, in con-
13 sultation with the Secretary of Commerce, in
14 the case of a rural development investment
15 zone.

16 **“(b) NUMBER OF DESIGNATIONS.—**

17 “(1) AGGREGATE LIMIT.—The appropriate Sec-
18 retaries may designate in the aggregate 50 nomi-
19 nated areas as tax enterprise zones under this sec-
20 tion, subject to the availability of eligible nominated
21 areas. Not more than 25 urban tax enterprise zones
22 may be designated and not more than 25 rural de-
23 velopment investment zones may be designated.
24 Such designations may be made only during cal-
25 endar years after 1992 and before 1998.

26 “(2) ANNUAL LIMITS.—

“(A) URBAN TAX ENTERPRISE ZONES.—

The number of urban tax enterprise zones designated under paragraph (1)—

“(i) before 1995 shall not exceed 8,

“(ii) before 1996 shall not exceed 15,

and

“(iii) before 1997 shall not exceed 21.

“(B) RURAL DEVELOPMENT INVESTMENT ZONES.—The number of rural development investment zones designated under paragraph (1)—

“(i) before 1995 shall not exceed 8,

“(ii) before 1996 shall not exceed 15,

and

“(iii) before 1997 shall not exceed 21.

“(3) ADVANCE DESIGNATIONS PERMITTED.—

For purposes of this subchapter, a designation during any calendar year shall be treated as made on January 1 of the following calendar year if the appropriate Secretary, in making such designation, specifies that such designation is effective as of such January 1.

“(c) LIMITATIONS ON DESIGNATIONS.—The appropriate Secretary may not make any designation under subsection (a) unless—

1 “(1) the local governments and the State in
2 which the nominated area is located have the
3 authority—

4 “(A) to nominate the area for designation
5 as a tax enterprise zone, and

6 “(B) to provide assurances satisfactory to
7 the appropriate Secretary that the commit-
8 ments under section 1392(c) will be fulfilled,

9 “(2) a nomination of the area is submitted
10 within a reasonable time before the calendar year for
11 which designation as a tax enterprise zone is sought
12 (or, if later, a reasonable time after the date of the
13 enactment of this subchapter),

14 “(3) the appropriate Secretary determines that
15 any information furnished is reasonably accurate,
16 and

17 “(4) the State and local governments certify
18 that no portion of the area nominated is already in-
19 cluded in a tax enterprise zone or in an area other-
20 wise nominated to be a tax enterprise zone.

21 “(d) PERIOD FOR WHICH DESIGNATION IS IN EF-
22 FECT.—

23 “(1) IN GENERAL.—Any designation of an area
24 as a tax enterprise zone shall remain in effect during

1 the period beginning on the date of the designation
2 and ending on the earliest of—

3 “(A) December 31 of the 15th calendar
4 year following the calendar year in which such
5 date occurs,

6 “(B) the termination date designated by
7 the State and local governments as provided for
8 in their nomination, or

9 “(C) the date the appropriate Secretary re-
10 vokes the designation under paragraph (2).

11 “(2) REVOCATION OF DESIGNATION.—

12 “(A) IN GENERAL.—The appropriate Sec-
13 retary shall revoke the designation of an area
14 as a tax enterprise zone if such Secretary deter-
15 mines that the local government or the State in
16 which it is located—

17 “(i) has modified the boundaries of
18 the area, or

19 “(ii) is not complying substantially
20 with the State and local commitments pur-
21 suant to section 1392(c).

22 “(B) APPLICABLE PROCEDURES.—A des-
23 ignation may be revoked by the appropriate
24 Secretary under subparagraph (A) only after a

1 hearing on the record involving officials of the
2 State or local government involved.

3 **"SEC. 1392. ELIGIBILITY AND SELECTION CRITERIA.**

4 “(a) IN GENERAL.—The appropriate Secretary may
5 make a designation of any nominated area under section
6 1391 only on the basis of the eligibility and selection cri-
7 teria set forth in this section.

8 “(b) ELIGIBILITY CRITERIA.—

9 “(1) URBAN TAX ENTERPRISE ZONES.—A nom-
10 inated area which is not a rural area shall be eligible
11 for designation under section 1391 only if it meets
12 the following criteria:

13 “(A) POPULATION.—The nominated area
14 has a population (as determined by the most re-
15 cent census data available) of not less than
16 4,000.

17 “(B) DISTRESS.—The nominated area is
18 one of pervasive poverty, unemployment, and
19 general distress.

20 “(C) SIZE.—The nominated area—

21 “(i) does not exceed 20 square miles,

22 “(ii) has a boundary which is continu-
23 ous, or consists of not more than 3 non-
24 contiguous parcels within the same metro-
25 politan area,

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1 “(iii) is located entirely within 1
2 State, and

3 “(iv) does not include any portion of
4 a central business district (as such term is
5 used for purposes of the most recent Cen-
6 sus of Retail Trade).

7 “(D) UNEMPLOYMENT RATE.—The unem-
8 ployment rate (as determined by the appro-
9 priate available data) is not less than 1.5 times
10 the national unemployment rate.

11 “(E) POVERTY RATE.—The poverty rate
12 (as determined by the most recent census data
13 available) for not less than 90 percent of the
14 population census tracts (or where not tracted,
15 the equivalent county divisions as defined by
16 the Bureau of the Census for the purposes of
17 defining poverty areas) within the nominated
18 area is not less than 20 percent.

19 “(F) COURSE OF ACTION.—There has been
20 adopted for the nominated area a course of ac-
21 tion which meets the requirements of subsection
22 (c).

23 “(2) RURAL DEVELOPMENT INVESTMENT
24 ZONES.—A nominated area which is a rural area

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1 shall be eligible for designation under section 1391
2 only if it meets the following criteria:

3 “(A) POPULATION.—The nominated area
4 has a population (as determined by the most re-
5 cent census data available) of not less than
6 1,000.

7 “(B) DISTRESS.—The nominated area is
8 one of general distress.

9 “(C) SIZE.—The nominated area—

10 “(i) does not exceed 10,000 square
11 miles,

12 “(ii) consists of areas within not more
13 than 4 contiguous counties,

14 “(iii) has a boundary which is contin-
15 uous, or consists of not more than 3 non-
16 contiguous parcels, and

17 “(iv) is located entirely within 1
18 State.

19 “(D) ADDITIONAL CRITERIA.—Not less
20 than 2 of the following criteria:

21 “(i) UNEMPLOYMENT RATE.—The cri-
22 terion set forth in paragraph (1)(D).

23 “(ii) POVERTY RATE.—The criterion
24 set forth in paragraph (1)(E).

“(iii) JOB LOSS.—The amount of wages attributable to employment in the area, and subject to tax under section 3301 during the preceding calendar year, is not more than 95 percent of such wages during the 5th preceding calendar year.

“(iv) OUT-MIGRATION.—The population of the area decreased (as determined by the most recent census data available) by 10 percent or more between 1980 and 1990.

“(E) COURSE OF ACTION.—There has been adopted for the nominated area a course of action which meets the requirements of subsection (c).

“(3) AREAS WITHIN INDIAN RESERVATIONS INELIGIBLE.—A nominated area shall not be eligible for designation under section 1391 if any portion of such area is within an Indian reservation.

“(c) REQUIRED STATE AND LOCAL COURSE OF ACTION.—

“(1) IN GENERAL.—No nominated area may be designated as a tax enterprise zone unless the local government and the State in which it is located agree in writing that, during any period during

1 which the area is a tax enterprise zone, the govern-
2 ments will follow a specified course of action de-
3 signed to reduce the various burdens borne by em-
4 ployers or employees in the area.

5 “(2) COURSE OF ACTION.—The course of action
6 under paragraph (1) may be implemented by both
7 governments and private nongovernmental entities,
8 may not be funded from proceeds of any Federal
9 program (other than discretionary proceeds), and
10 may include—

11 “(A) a certification by the State insurance
12 commissioner (or similar State official) that
13 basic commercial property insurance of a type
14 comparable to that insurance generally in force
15 in urban or rural areas, whichever is applicable,
16 throughout the State is available to businesses
17 within the tax enterprise zone,

18 “(B) a reduction of tax rates or fees apply-
19 ing within the tax enterprise zone,

20 “(C) an increase in the level, or efficiency
21 of delivery, of local public services within the
22 tax enterprise zone,

23 “(D) actions to reduce, remove, simplify,
24 or streamline government paperwork require-
25 ments applicable within the tax enterprise zone,

1 “(E) the involvement in the program by
2 public authorities or private entities, organiza-
3 tions, neighborhood associations, and commu-
4 nity groups, particularly those within the nomi-
5 nated area, including a written commitment to
6 provide jobs and job training for, and technical,
7 financial, or other assistance to, employers, em-
8 ployees, and residents of the nominated area,

9 “(F) the giving of special preference to
10 contractors owned and operated by members of
11 any socially and economically disadvantaged
12 group (within the meaning of section 8(a) of
13 the Small Business Act (15 U.S.C. 637(a)),

14 “(G) the gift (or sale at below fair market
15 value) of surplus land in the tax enterprise zone
16 to neighborhood organizations agreeing to oper-
17 ate a business on the land,

18 “(H) the establishment of a program
19 under which employers within the tax enterprise
20 zone may purchase health insurance for their
21 employees on a pooled basis,

22 “(I) the establishment of a program to en-
23 courage local financial institutions to satisfy
24 their obligations under the Community Rein-
25 vestment Act of 1977 (12 U.S.C. 2901 et seq.)

1 by making loans to enterprise zone businesses,
2 with emphasis on startup and other small-busi-
3 ness concerns (as defined in section 3(a) of the
4 Small Business Act (15 U.S.C. 632(a)),

5 “(J) the giving of special preference to
6 qualified low-income housing projects located in
7 tax enterprise zones, in the allocation of the
8 State housing credit ceiling applicable under
9 section 42, and

10 “(K) the giving of special preference to fa-
11 cilities located in tax enterprise zones, in the al-
12 location of the State ceiling on private activity
13 bonds applicable under section 146.

14 “(3) RECOGNITION OF PAST EFFORTS.—In
15 evaluating courses of action agreed to by any State
16 or local government, the appropriate Secretary shall
17 take into account the past efforts of the State or
18 local government in reducing the various burdens
19 borne by employers and employees in the area in-
20 volved.

21 “(4) PROHIBITION OF ASSISTANCE FOR BUSI-
22 NESS RELOCATIONS.—

23 “(A) IN GENERAL.—The course of action
24 implemented under paragraph (1) may not in-

1 clude any action to assist any establishment in
2 relocating from one area to another area.

3 “(B) EXCEPTION.—The limitation estab-
4 lished in subparagraph (A) shall not be con-
5 strued to prohibit assistance for the expansion
6 of an existing business entity through the estab-
7 lishment of a new branch, affiliate, or subsidi-
8 ary if—

9 “(i) the establishment of the new
10 branch, affiliate, or subsidiary will not re-
11 sult in an increase in unemployment in the
12 area of original location or in any other
13 area where the existing business entity
14 conducts business operations, and

15 “(ii) there is no reason to believe that
16 the new branch, affiliate, or subsidiary is
17 being established with the intention of clos-
18 ing down the operations of the existing
19 business entity in the area of its original
20 location or in any other area where the ex-
21 isting business entity conducts business op-
22 erations.

23 “(d) SELECTION CRITERIA.—From among the nomi-
24 nated areas eligible for designation under subsection (b)
25 by the appropriate Secretary, such appropriate Secretary

1 shall make designations of tax enterprise zones on the
2 basis of the following factors (each of which is to be given
3 equal weight):

4 “(1) STATE AND LOCAL COMMITMENTS.—The
5 strength and quality of the commitments which have
6 been promised as part of the course of action rel-
7 ative to the fiscal ability of the nominating State
8 and local governments.

9 “(2) IMPLEMENTATION OF COURSE OF AC-
10 TION.—The effectiveness and enforceability of the
11 guarantees that the course of action will actually be
12 carried out, including the specificity with which the
13 commitments under paragraph (1) are described in
14 order that the applicable Secretary will be better
15 able to determine annually under section
16 1391(d)(2)(A)(ii) whether the commitments are
17 being carried out.

18 “(3) PRIVATE COMMITMENTS.—The level of
19 commitments by private entities of additional re-
20 sources and contributions to the economy of the
21 nominated area, including the creation of new or ex-
22 panded business activities.

23 “(4) AVERAGE RANKINGS.—The average rank-
24 ing with respect to—

1 “(A) the criteria set forth in subpara-
2 graphs (D) and (E) of subsection (b)(1), in the
3 case of an area which is not a rural area, or

4 “(B) the 2 criteria set forth in subsection
5 (b)(2)(D) that give the area a higher average
6 ranking, in the case of a rural area.

7 “(5) REVITALIZATION POTENTIAL.—The poten-
8 tial for the revitalization of the nominated area as
9 a result of zone designation, taking into account
10 particularly the number of jobs to be created and re-
11 tained.

12 **“SEC. 1393. DEFINITIONS AND SPECIAL RULES.**

13 For purposes of this subchapter—

14 “(1) URBAN TAX ENTERPRISE ZONE.—The
15 term ‘urban tax enterprise zone’ means a tax enter-
16 prise zone which meets the requirements of section
17 1392(b)(1).

18 “(2) RURAL DEVELOPMENT INVESTMENT
19 ZONE.—The term ‘rural development investment
20 zone’ means a tax enterprise zone which meets the
21 requirements of section 1392(b)(2).

22 “(3) GOVERNMENTS.—If more than 1 local gov-
23 ernment seeks to nominate an area as a tax enter-
24 prise zone, any reference to, or requirement of, this
25 subchapter shall apply to all such governments.

1 “(4) LOCAL GOVERNMENT.—The term ‘local
2 government’ means—

3 “(A) any county, city, town, township, par-
4 ish, village, or other general purpose political
5 subdivision of a State, and

6 “(B) any combination of political subdivi-
7 sions described in subparagraph (A) recognized
8 by the appropriate Secretary.

9 “(5) NOMINATED AREA.—The term ‘nominated
10 area’ means an area which is nominated by 1 or
11 more local governments and the State in which it is
12 located for designation as a tax enterprise zone
13 under this subchapter.

14 “(6) RURAL AREA.—The term ‘rural area’
15 means any area which is—

16 “(A) outside of a metropolitan statistical
17 area (within the meaning of section
18 143(k)(2)(B)), or

19 “(B) determined by the Secretary of Agri-
20 culture, after consultation with the Secretary of
21 Commerce, to be a rural area.

22 “(7) APPROPRIATE SECRETARY.—The term ‘ap-
23 propriate Secretary’ means—

1 “(A) the Secretary of Housing and Urban
2 Development in the case of urban tax enterprise
3 zones, and

4 “(B) the Secretary of Agriculture in the
5 case of rural development investment zones.

6 “(8) STATE-CHARTERED DEVELOPMENT COR-
7 PORATIONS.—An area shall be treated as nominated
8 by a State and a local government if it is nominated
9 by an economic development corporation chartered
10 by the State.

11 **“PART II—INCENTIVES FOR TAX ENTERPRISE**
12 **ZONES**

 “SUBPART A. Enterprise zone employment credit.

 “SUBPART B. Investment incentives.

 “SUBPART C. Regulations.

13 **“Subpart A—Enterprise Zone Employment Credit**

 “Sec. 1394. Enterprise zone employment credit.

 “Sec. 1395. Other definitions and special rules.

14 **“SEC. 1394. ENTERPRISE ZONE EMPLOYMENT CREDIT.**

15 “(a) AMOUNT OF CREDIT.—For purposes of section
16 38, the amount of the enterprise zone employment credit
17 determined under this section with respect to any em-
18 ployer for any taxable year is 15 percent of the qualified
19 zone wages paid or incurred during such taxable year.

20 “(b) QUALIFIED ZONE WAGES.—

21 “(1) IN GENERAL.—For purposes of this sec-
22 tion, the term ‘qualified zone wages’ means any

1 wages paid or incurred by an employer for services
2 performed by an employee while such employee is a
3 qualified zone employee.

4 “(2) ONLY FIRST \$20,000 OF WAGES PER YEAR
5 TAKEN INTO ACCOUNT.—With respect to each quali-
6 fied zone employee, the amount of qualified zone
7 wages which may be taken into account for the tax-
8 able year shall not exceed \$20,000.

9 “(3) COORDINATION WITH TARGETED JOBS
10 CREDIT.—The term ‘qualified zone wages’ shall not
11 include wages attributable to service rendered during
12 the 1-year period beginning with the day the individ-
13 ual begins work for the employer if any portion of
14 such wages is taken into account in determining the
15 credit under section 51.

16 “(c) QUALIFIED ZONE EMPLOYEE.—For purposes of
17 this section—

18 “(1) IN GENERAL.—Except as otherwise pro-
19 vided in this subsection, the term ‘qualified zone em-
20 ployee’ means, with respect to any period, any em-
21 ployee of an employer if—

22 “(A) substantially all of the services per-
23 formed during such period by such employee for
24 such employer are performed within a tax en-

1 terprise zone in a trade or business of the em-
2 ployer, and

3 “(B) the principal place of abode of such
4 employee while performing such services is
5 within such tax enterprise zone.

6 “(2) CERTAIN INDIVIDUALS NOT ELIGIBLE.—
7 The term ‘qualified zone employee’ shall not
8 include—

9 “(A) any individual described in subpara-
10 graph (A), (B), or (C) of section 51(i)(1),

11 “(B) any 5-percent owner (as defined in
12 section 416(i)(1)(B)),

13 “(C) any individual employed by the em-
14 ployer at any facility described in section
15 144(c)(6)(B), and

16 “(D) any individual employed by the em-
17 ployer in a trade or business the principal activ-
18 ity of which is farming (within the meaning of
19 subparagraphs (A) or (B) of section
20 2032A(e)(5)), but only if, as of the close of the
21 taxable year, the sum of—

22 “(i) the aggregate unadjusted bases
23 (or, if greater, the fair market value) of
24 the assets owned by the employer which
25 are used in such a trade or business, and

1 “(ii) the aggregate value of assets
2 leased by the employer which are used in
3 such a trade or business (as determined
4 under regulations prescribed by the Sec-
5 retary),
6 exceeds \$500,000.

7 “(d) EARLY TERMINATION OF EMPLOYMENT BY EM-
8 PLOYER.—

9 “(1) IN GENERAL.—If the employment of any
10 employee is terminated by the taxpayer before the
11 day 1 year after the day on which such employee
12 began work for the employer—

13 “(A) no wages with respect to such em-
14 ployee shall be taken into account under sub-
15 section (a) for the taxable year in which such
16 employment is terminated, and

17 “(B) the tax under this chapter for the
18 taxable year in which such employment is ter-
19 minated shall be increased by the aggregate
20 credits (if any) allowed under section 38(a) for
21 prior taxable years by reason of wages taken
22 into account with respect to such employee.

23 “(2) CARRYBACKS AND CARRYOVERS AD-
24 JUSTED.—In the case of any termination of employ-
25 ment to which paragraph (1) applies, the carrybacks

1 and carryovers under section 39 shall be properly
2 adjusted.

3 “(3) SUBSECTION NOT TO APPLY IN CERTAIN
4 CASES.—

5 “(A) IN GENERAL.—Paragraph (1) shall
6 not apply to—

7 “(i) a termination of employment of
8 an employee who voluntarily leaves the em-
9 ployment of the taxpayer,

10 “(ii) a termination of employment of
11 an individual who before the close of the
12 period referred to in paragraph (1) be-
13 comes disabled to perform the services of
14 such employment unless such disability is
15 removed before the close of such period
16 and the taxpayer fails to offer reemploy-
17 ment to such individual, or

18 “(iii) a termination of employment of
19 an individual if it is determined under the
20 applicable State unemployment compensa-
21 tion law that the termination was due to
22 the misconduct of such individual.

23 “(B) CHANGES IN FORM OF BUSINESS.—
24 For purposes of paragraph (1), the employment

1 relationship between the taxpayer and an em-
2 ployee shall not be treated as terminated—

3 “(i) by a transaction to which section
4 381(a) applies if the employee continues to
5 be employed by the acquiring corporation,
6 or

7 “(ii) by reason of a mere change in
8 the form of conducting the trade or busi-
9 ness of the taxpayer if the employee con-
10 tinues to be employed in such trade or
11 business and the taxpayer retains a sub-
12 stantial interest in such trade or business.

13 “(4) SPECIAL RULE.—Any increase in tax
14 under paragraph (1) shall not be treated as a tax
15 imposed by this chapter for purposes of—

16 “(A) determining the amount of any credit
17 allowable under this chapter, and

18 “(B) determining the amount of the tax
19 imposed by section 55.

20 **“SEC. 1395. OTHER DEFINITIONS AND SPECIAL RULES.**

21 “(a) WAGES.—For purposes of this subpart, the term
22 ‘wages’ has the same meaning as when used in section
23 51.

24 “(b) CONTROLLED GROUPS.—For purposes of this
25 subpart—

1 “(1) all employers treated as a single employer
2 under subsection (a) or (b) of section 52 shall be
3 treated as a single employer for purposes of this
4 subpart, and

5 “(2) the credit (if any) determined under sec-
6 tion 1394 with respect to each such employer shall
7 be its proportionate share of the wages giving rise
8 to such credit.

9 “(c) CERTAIN OTHER RULES MADE APPLICABLE.—
10 For purposes of this subpart, rules similar to the rules
11 of section 51(k) and subsections (c), (d), and (e) of section
12 52 shall apply.

“(d) NOTICE OF AVAILABILITY OF ADVANCE PAY-
MENT OF EARNED INCOME CREDIT.—Each employer shall
take reasonable steps to notify all qualified zone employees
of the availability to eligible individuals of receiving ad-
vanced payments of the credit under section 32 (relating
to the earned income credit).

19 **“Subpart B—Investment Incentives**

"Sec. 1396. Deduction for purchase of enterprise zone stock.

"Sec. 1397. 50 percent exclusion for gain from new zone investments.

"Sec. 1397A. Nonrecognition of gain from new zone investments.

"Sec. 1397B. Other incentives.

"Sec. 1397C. Enterprise zone business defined.

1 **"SEC. 1396. DEDUCTION FOR PURCHASE OF ENTERPRISE**
2 **ZONE STOCK.**

3 “(a) GENERAL RULE.—In the case of an individual,
4 there shall be allowed as a deduction an amount equal to
5 50 percent of the aggregate amount paid in cash by the
6 taxpayer during the taxable year for the purchase of enter-
7 prise zone stock.

8 “(b) LIMITATION.—

9 “(1) IN GENERAL.—The maximum amount al-
10 lowed as a deduction under subsection (a) to a tax-
11 payer for the taxable year shall not exceed the lesser
12 of—

13 “(A) \$25,000, or

14 “(B) the excess of \$250,000 over the
15 amount allowed as a deduction under this sec-
16 tion to the taxpayer for all prior taxable years.

17 “(2) EXCESS AMOUNTS.—If the amount other-
18 wise deductible by any person under subsection (a)
19 exceeds the limitation under paragraph (1)(A)—

20 “(A) the amount of such excess shall be
21 treated as an amount paid to which subsection
22 (a) applies during the next taxable year, and

23 “(B) the deduction allowed for any taxable
24 year shall be allocated proportionately among
25 the enterprise zone stock purchased by such

1 person on the basis of the respective purchase
2 prices per share.

3 “(3) AGGREGATION WITH FAMILY MEMBERS.—

4 The taxpayer and members of the taxpayer’s family
5 shall be treated as one person for purposes of para-
6 graph (1), and the limitations contained in such
7 paragraph shall be allocated among the taxpayer and
8 such members in accordance with their respective
9 purchases of enterprise zone stock. For purposes of
10 this paragraph, an individual’s family includes only
11 such individual’s spouse and minor children.

12 “(c) ENTERPRISE ZONE STOCK.—For purposes of
13 this section—

14 “(1) IN GENERAL.—The term ‘enterprise zone
15 stock’ means stock of a corporation if—

16 “(A) such stock is acquired on original
17 issue from the corporation, and

18 “(B) such corporation is, at the time of
19 issue, a qualified enterprise zone issuer.

20 “(2) PROCEEDS MUST BE INVESTED IN QUALI-
21 FIED ENTERPRISE ZONE PROPERTY.—

22 “(A) IN GENERAL.—Such term shall in-
23 clude such stock only to the extent that the pro-
24 ceeds of such issuance are used by such issuer
25 during the 12-month period beginning on the

1 date of issuance to purchase (as defined in sec-
2 tion 179(d)(2)) qualified enterprise zone prop-
3 erty.

4 “(B) QUALIFIED ENTERPRISE ZONE PROP-
5 ERTY.—For purposes of this section, the term
6 ‘qualified enterprise zone property’ means prop-
7 erty to which section 168 applies—

8 “(i) the original use of which in a tax
9 enterprise zone commences with the issuer,
10 and

11 “(ii) substantially all of the use of
12 which is in a tax enterprise zone.

13 “(3) REDEMPTIONS.—The term ‘enterprise
14 zone stock’ shall not include any stock acquired from
15 a corporation which made a substantial stock re-
16 demption or distribution (without a bona fide busi-
17 ness purpose therefor) in an attempt to avoid the
18 purposes of this section.

19 “(d) QUALIFIED ENTERPRISE ZONE ISSUER.—For
20 purposes of this section, the term ‘qualified enterprise
21 zone issuer’ means any domestic C corporation if—

22 “(1) such corporation is an enterprise zone
23 business or, in the case of a new corporation, such
24 corporation is being organized for purposes of being
25 an enterprise zone business,

1 “(2) such corporation does not have more than
2 one class of stock,

3 “(3) the sum of—

4 “(A) the money,

5 “(B) the aggregate unadjusted bases of
6 property owned by such corporation, and

7 “(C) the value of property leased to the
8 corporation (as determined under regulations
9 prescribed by the Secretary),

10 does not exceed \$5,000,000, and

11 “(4) more than 20 percent of the total voting
12 power, and 20 percent of the total value, of the
13 stock of such corporation is owned directly by indi-
14 viduals or estates or indirectly by individuals
15 through partnerships or trusts.

16 The determination under paragraph (3) shall be made as
17 of the time of issuance of the stock in question but shall
18 include amounts received for such stock.

19 “(e) DISPOSITIONS OF STOCK.—

20 “(1) BASIS REDUCTION.—For purposes of this
21 title, the basis of any enterprise zone stock shall be
22 reduced by the amount of the deduction allowed
23 under this section with respect to such stock.

24 “(2) DEDUCTION RECAPTURED AS ORDINARY
25 INCOME.—For purposes of section 1245—

“(A) any stock the basis of which is reduced under paragraph (1) (and any other property the basis of which is determined in whole or in part by reference to the adjusted basis of such stock) shall be treated as section 1245 property, and

“(B) any reduction under paragraph (1) shall be treated as a deduction allowed for depreciation.

If an exchange of any stock described in paragraph (1) qualifies under section 354(a), 355(a), or 356(a), the amount of gain recognized under section 1245 by reason of this paragraph shall not exceed the amount of gain recognized in the exchange (determined without regard to this paragraph).

“(3) CERTAIN EVENTS TREATED AS DISPOSITIONS.—For purposes of determining the amount treated as ordinary income under section 1245 by reason of paragraph (2), paragraph (3) of section 1245(b) (relating to certain tax-free transactions) shall not apply.

“(4) INTEREST CHARGED IF DISPOSITION WITHIN 5 YEARS OF PURCHASE.—

“(A) IN GENERAL.—If—

1 “(i) a taxpayer disposes of any enter-
2 prise zone stock with respect to which a
3 deduction was allowed under subsection (a)
4 (or any other property the basis of which
5 is determined in whole or in part by ref-
6 erence to the adjusted basis of such stock)
7 before the end of the 5-year period begin-
8 ning on the date such stock was purchased
9 by the taxpayer, and

10 “(ii) section 1245(a) applies to such
11 disposition by reason of paragraph (2),
12 then the tax imposed by this chapter for the
13 taxable year in which such disposition occurs
14 shall be increased by the amount determined
15 under subparagraph (B).

16 “(B) ADDITIONAL AMOUNT.—For purposes
17 of subparagraph (A), the additional amount
18 shall be equal to the amount of interest (deter-
19 mined at the rate applicable under section
20 6621(a)(2)) that would accrue—

21 “(i) during the period beginning on
22 the date the stock was purchased by the
23 taxpayer and ending on the date of such
24 disposition by the taxpayer,

“(ii) on an amount equal to the aggregate decrease in tax of the taxpayer resulting from the deduction allowed under this subsection (a) with respect to such stock.

“(C) SPECIAL RULE.—Any increase in tax under subparagraph (A) shall not be treated as a tax imposed by this chapter for purposes of—

“(i) determining the amount of any credit allowable under this chapter, and

“(ii) determining the amount of the tax imposed by section 55.

“(f) DISQUALIFICATION.—

“(1) ISSUER CEASES TO QUALIFY.—If, during the 10-year period beginning on the date enterprise zone stock was purchased by the taxpayer, the issuer of such stock ceases to be a qualified enterprise zone issuer (determined without regard to subsection (d)(3)), then notwithstanding any provision of this subtitle other than paragraph (2), the taxpayer shall be treated for purposes of subsection (e) as disposing of such stock (and any other property the basis of which is determined in whole or in part by reference to the adjusted basis of such stock) during the taxable year during which such cessation occurs

1 at its fair market value as of the 1st day of such
2 taxable year.

3 “(2) CESSATION OF ENTERPRISE ZONE STATUS
4 NOT TO CAUSE RECAPTURE.—A corporation shall
5 not fail to be treated as a qualified enterprise zone
6 issuer for purposes of paragraph (1) solely by reason
7 of the termination or revocation of a tax enterprise
8 zone designation.

9 “(g) OTHER SPECIAL RULES.—

10 “(1) APPLICATION OF LIMITS TO PARTNER-
11 SHIPS AND S CORPORATIONS.—In the case of a part-
12 nership or an S corporation, the limitations under
13 subsection (b) shall apply at the partner and share-
14 holder level and shall not apply at the partnership
15 or corporation level.

16 “(2) DEDUCTION NOT ALLOWED TO ESTATES
17 AND TRUSTS.—Estates and trusts shall not be treat-
18 ed as individuals for purposes of this section.

19 **“SEC. 1397. 50 PERCENT EXCLUSION FOR GAIN FROM NEW**
20 **ZONE INVESTMENTS.**

21 “(a) GENERAL RULE.—In the case of an individual,
22 gross income shall not include 50 percent of any qualified
23 capital gain recognized on the sale or exchange of a quali-
24 fied zone asset held for more than 5 years.

1 “(b) QUALIFIED ZONE ASSET.—For purposes of this
2 section—

3 “(1) IN GENERAL.—The term ‘qualified zone
4 asset’ means—

5 “(A) any qualified zone stock,

6 “(B) any qualified zone business property,

7 and

8 “(C) any qualified zone partnership inter-
9 est.

10 “(2) QUALIFIED ZONE STOCK.—

11 “(A) IN GENERAL.—Except as provided in
12 subparagraph (B), the term ‘qualified zone
13 stock’ means any stock in a domestic corpora-
14 tion if—

15 “(i) such stock is acquired by the tax-
16 payer on original issue from the corpora-
17 tion solely in exchange for cash,

18 “(ii) as of the time such stock was is-
19 sued, such corporation was an enterprise
20 zone business (or, in the case of a new cor-
21 poration, such corporation was being orga-
22 nized for purposes of being an enterprise
23 zone business), and

24 “(iii) during substantially all of the
25 taxpayer’s holding period for such stock, .

1 such corporation qualified as an enterprise
2 zone business.

3 “(B) EXCLUSION OF STOCK FOR WHICH
4 DEDUCTION UNDER SECTION 1396 ALLOWED.—
5 The term ‘qualified zone stock’ shall not include
6 any stock the basis of which is reduced under
7 section 1396(e)(1).

8 “(C) REDEMPTIONS.—The term ‘qualified
9 zone stock’ shall not include any stock acquired
10 from a corporation which made a substantial
11 stock redemption or distribution (without a
12 bona fide business purpose therefor) in an at-
13 tempt to avoid the purposes of this section.

14 “(3) QUALIFIED ZONE BUSINESS PROPERTY.—

15 “(A) IN GENERAL.—The term ‘qualified
16 zone business property’ means tangible property
17 if—

18 “(i) such property was acquired by
19 the taxpayer by purchase (as defined in
20 section 179(d)(2)) after the date on which
21 the designation of the tax enterprise zone
22 took effect,

23 “(ii) the original use of such property
24 in a tax enterprise zone commences with
25 the taxpayer, and

1 “(iii) during substantially all of the
2 taxpayer’s holding period for such prop-
3 erty, substantially all of the use of such
4 property was in a tax enterprise zone and
5 in an enterprise zone business of the tax-
6 payer.

7 “(B) SPECIAL RULE FOR SUBSTANTIAL IM-
8 PROVEMENTS.—The requirements of clauses (i)
9 and (ii) of subparagraph (A) shall be treated as
10 satisfied with respect to—

11 “(i) property which is substantially
12 improved by the taxpayer, and

13 “(ii) any land on which such property
14 is located.

15 For purposes of the preceding sentence, prop-
16 erty shall be treated as substantially improved
17 by the taxpayer if, during any 24-month period
18 beginning after the date on which the designa-
19 tion of the tax enterprise zone took effect, addi-
20 tions to basis with respect to such property in
21 the hands of the taxpayer exceed the greater of
22 (i) an amount equal to the adjusted basis at the
23 beginning of such 24-month period in the hands
24 of the taxpayer, or (ii) \$5,000.

1 “(C) LIMITATION ON LAND.—The term
2 ‘qualified zone business property’ shall not in-
3 clude land which is not an integral part of a
4 qualified business (as defined in section
5 1397C(c)).

6 “(4) QUALIFIED ZONE PARTNERSHIP INTER-
7 EST.—The term ‘qualified zone partnership interest’
8 means any interest in a partnership if—

9 “(A) such interest is acquired by the tax-
10 payer from the partnership solely in exchange
11 for cash,

12 “(B) as of the time such interest was ac-
13 quired, such partnership was an enterprise zone
14 business (or, in the case of a new partnership,
15 such partnership was being organized for pur-
16 poses of being an enterprise zone business), and

17 “(C) during substantially all of the tax-
18 payer’s holding period for such interest, such
19 partnership qualified as an enterprise zone
20 business.

21 A rule similar to the rule of paragraph (2)(C) shall
22 apply for purposes of this paragraph.

23 “(5) TREATMENT OF SUBSEQUENT PUR-
24 CHASERS.—The term ‘qualified zone asset’ includes
25 any property which would be a qualified zone asset

1 but for paragraph (2)(A)(i), (3)(A)(ii), or (4)(A) in
2 the hands of the taxpayer if such property was a
3 qualified zone asset in the hands of any prior holder.

4 “(6) 10-YEAR SAFE HARBOR.—If any property
5 ceases to be a qualified zone asset by reason of para-
6 graph (2)(A)(iii), (3)(A)(iii), or (4)(C) after the 10-
7 year period beginning on the date the taxpayer ac-
8 quired such property, such property shall continue to
9 be treated as meeting the requirements of such
10 paragraph; except that the amount of gain to which
11 subsection (a) applies on any sale or exchange of
12 such property shall not exceed the amount which
13 would be qualified capital gain had such property
14 been sold on the date of such cessation.

15 “(7) TREATMENT OF ZONE TERMINATIONS.—
16 The termination of any designation of an area as a
17 tax enterprise zone shall be disregarded for purposes
18 of determining whether any property is a qualified
19 zone asset.

20 “(c) OTHER DEFINITIONS AND SPECIAL RULES.—
21 For purposes of this section—

22 “(1) QUALIFIED CAPITAL GAIN.—Except as
23 otherwise provided in this subsection, the term
24 ‘qualified capital gain’ means any long-term capital
25 gain.

1 “(2) CERTAIN GAIN ON REAL PROPERTY NOT
2 QUALIFIED.—The term ‘qualified capital gain’ shall
3 not include any gain which would be treated as ordi-
4 nary income under section 1250 if section 1250 ap-
5 plied to all depreciation rather than the additional
6 depreciation.

7 “(3) GAIN ATTRIBUTABLE TO PERIODS AFTER
8 TERMINATION OF ZONE DESIGNATION NOT QUALI-
9 FIED.—The term ‘qualified capital gain’ shall not in-
10 clude any gain attributable to periods after the ter-
11 mination of any designation of an area as a tax en-
12 terprise zone.

13 “(d) TREATMENT OF PASS-THRU ENTITIES.—

14 “(1) SALES AND EXCHANGES.—Gain on the
15 sale or exchange of an interest in a pass-thru entity
16 held by the taxpayer (other than an interest in an
17 entity which was an enterprise zone business during
18 substantially all of the period the taxpayer held such
19 interest) for more than 5 years shall be treated as
20 gain described in subsection (a) to the extent such
21 gain is attributable to amounts which would be
22 qualified capital gain on qualified zone assets (deter-
23 mined as if such assets had been sold on the date
24 of the sale or exchange) held by such entity for more
25 than 5 years and throughout the period the taxpayer

1 held such interest. A rule similar to the rule of para-
2 graph (2)(C) shall apply for purposes of the preced-
3 ing sentence.

4 “(2) INCOME INCLUSIONS.—

5 “(A) IN GENERAL.—Any amount included
6 in income by reason of holding an interest in a
7 pass-thru entity (other than an entity which
8 was an enterprise zone business during substan-
9 tially all of the period the taxpayer held the in-
10 terest to which such inclusion relates) shall be
11 treated as gain described in subsection (a) if
12 such amount meets the requirements of sub-
13 paragraph (B).

14 “(B) REQUIREMENTS.—An amount meets
15 the requirements of this subparagraph if—

16 “(i) such amount is attributable to
17 qualified capital gain recognized on the
18 sale or exchange by the pass-thru entity of
19 property which is a qualified zone asset in
20 the hands of such entity and which was
21 held by such entity for the period required
22 under subsection (a), and

23 “(ii) such amount is includible in the
24 gross income of the taxpayer by reason of
25 the holding of an interest in such entity

which was held by the taxpayer on the date on which such pass-thru entity acquired such asset and at all times thereafter before the disposition of such asset by such pass-thru entity.

“(C) LIMITATION BASED ON INTEREST ORIGINALLY HELD BY TAXPAYER.—Subparagraph (A) shall not apply to any amount to the extent such amount exceeds the amount to which subparagraph (A) would have applied if such amount were determined by reference to the interest the taxpayer held in the pass-thru entity on the date the qualified zone asset was acquired.

“(3) PASS-THRU ENTITY.—For purposes of this subsection, the term ‘pass-thru entity’ means—

“(A) any partnership,

“(B) any S corporation,

“(C) any regulated investment company,

and

“(D) any common trust fund.

“(e) SALES AND EXCHANGES OF INTERESTS IN PARTNERSHIPS AND S CORPORATIONS WHICH ARE QUALIFIED ZONE BUSINESSES.—In the case of the sale or exchange of an interest in a partnership, or of stock

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1 in an S corporation, which was an enterprise zone business
2 during substantially all of the period the taxpayer held
3 such interest or stock, the amount of qualified capital gain
4 shall be determined without regard to—

5 “(1) any intangible, and any land, which is not
6 an integral part of any qualified business (as defined
7 in section 1397C(b)), and

8 “(2) gain attributable to periods before the des-
9 ignation of an area as a tax enterprise zone.

10 “(f) CERTAIN TAX-FREE AND OTHER TRANSFERS.—
11 For purposes of this section—

12 “(1) IN GENERAL.—In the case of a transfer of
13 a qualified zone asset to which this subsection ap-
14 plies, the transferee shall be treated as—

15 “(A) having acquired such asset in the
16 same manner as the transferor, and

17 “(B) having held such asset during any
18 continuous period immediately preceding the
19 transfer during which it was held (or treated as
20 held under this subsection) by the transferor.

21 “(2) TRANSFERS TO WHICH SUBSECTION AP-
22 PLIES.—This subsection shall apply to any
23 transfer—

24 “(A) by gift,

25 “(B) at death, or

“(C) from a partnership to a partner thereof of a qualified zone asset with respect to which the requirements of subsection (d)(2) are met at the time of the transfer (without regard to the 5-year holding requirement).

“(3) CERTAIN RULES MADE APPLICABLE.—Rules similar to the rules of section 1244(d)(2) shall apply for purposes of this section.

“(g) CERTAIN BUSINESSES TREATED AS NOT QUALIFIED BUSINESSES.—For purposes of this section and section 1397A, the term ‘enterprise zone business’ has the meaning given such term by section 1397C except that, in applying section 1397C for such purposes, the term ‘qualified business’ shall not include any trade or business of producing property of a character subject to the allowance for depletion under section 611.

“SEC. 1397A. NONRECOGNITION OF GAIN FROM NEW ZONE INVESTMENTS.

“(a) GENERAL RULE.—At the election of an individual, qualified capital gain (within the meaning of section 1397) from the sale or exchange of a qualified zone asset shall be recognized only to the extent that—

“(1) the amount realized from such sale or exchange, exceeds

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1 “(2) the cost (not heretofore taken into account
2 under this subsection) of any qualified zone asset
3 purchased directly by the taxpayer during the rein-
4 vestment period.

5 “(b) QUALIFIED ZONE ASSET.—For purposes of this
6 section—

7 “(1) IN GENERAL.—The term ‘qualified zone
8 asset’ has the meaning given such term by section
9 1397.

10 “(2) TIME FOR TESTING.—

11 “(A) SALES.—In the case of a sale or ex-
12 change of property, the determination of wheth-
13 er such property is a qualified zone asset shall
14 be made as of the time of the sale or exchange.

15 “(B) PURCHASES.—In the case of a pur-
16 chase of property, the determination of whether
17 such property is a qualified zone asset shall be
18 made as of the time of such purchase.

19 “(c) OTHER DEFINITIONS.—For purposes of this
20 section—

21 “(1) REINVESTMENT PERIOD.—The term ‘rein-
22 vestment period’ means, with respect to any sale or
23 exchange, the 6-month period beginning on the date
24 of such sale or exchange.

1 “(2) PURCHASE.—The term ‘purchase’ has the
2 meaning given to such term by section 179(d)(2).

3 “(d) BUSINESS OR PROPERTY CEASES TO QUAL-
4 IFY.—

5 “(1) IN GENERAL.—If, during the 10-year pe-
6 riod beginning on the date any qualified zone re-
7 placement asset was purchased by the taxpayer,
8 such asset ceases to be a qualified zone asset, not-
9 withstanding any provision of this subtitle other
10 than paragraph (3), the taxpayer shall be treated as
11 disposing of such asset during the taxable year dur-
12 ing which such cessation occurs at its fair market
13 value as of the 1st day of such taxable year.

14 “(2) LIMITATION ON GAIN RECOGNIZED.—The
15 amount of gain recognized pursuant to paragraph
16 (1) with respect to any asset shall not exceed the
17 lesser of—

18 “(A) the amount of gain which was not
19 recognized under subsection (a) by the reason
20 of the purchase of such asset, or

21 “(B) the excess of the fair market value
22 referred to in paragraph (1) over the adjusted
23 basis of such asset.

24 “(3) CESSATION OF ENTERPRISE ZONE STATUS
25 NOT TO CAUSE RECAPTURE.—An asset shall not fail

1 to be treated as a qualified zone asset for purposes
2 of paragraph (1) solely by reason of the termination
3 of a tax enterprise zone designation.

4 “(4) QUALIFIED ZONE REPLACEMENT ASSET.—

5 For purposes of paragraph (1), the term ‘qualified
6 zone replacement asset’ means any qualified zone
7 asset the purchase of which resulted in the non-
8 recognition of gain under subsection (a) with respect
9 to any other property.

10 “(e) BASIS OF QUALIFIED ZONE REPLACEMENT

11 ASSET.—If gain from the sale or exchange of any property
12 is not recognized by reason of subsection (a), such gain
13 shall be applied to reduce (in the order acquired) the basis
14 of any qualified zone replacement asset (as defined in sub-
15 section (d)(4)) purchased during the reinvestment period.

16 “(f) COORDINATION WITH INSTALLMENT METHOD

17 REPORTING.—This section shall not apply to any gain
18 from any installment sale (as defined in section 453(b))
19 if section 453(a) applies to such sale.

20 “(g) STATUTE OF LIMITATIONS.—If any gain is real-
21 ized by the taxpayer on any sale or exchange to which
22 an election under this section applies, then—

23 “(1) the statutory period for the assessment of
24 any deficiency with respect to such gain shall not ex-
25 pire before the expiration of 3 years from the date

1 the Secretary is notified by the taxpayer (in such
2 manner as the Secretary may by regulations pre-
3 scribe) of—

4 “(A) the taxpayer’s cost of purchasing any
5 qualified zone replacement asset,

6 “(B) the taxpayer’s intention not to pur-
7 chase a qualified zone replacement asset within
8 the reinvestment period, or

9 “(C) a failure to make such purchase with-
10 in the reinvestment period, and

11 “(2) such deficiency may be assessed before the
12 expiration of such 3-year period notwithstanding the
13 provisions of any law or rule of law which would oth-
14 erwise prevent such assessment.

15 **“SEC. 1397B. ADDITIONAL INCENTIVES.**

16 “(a) INCREASE IN EXPENSING UNDER SECTION
17 179.—In the case of an enterprise zone business, section
18 179(b)(1) shall be applied by substituting ‘\$20,000’ for
19 ‘\$10,000’.

20 “(b) ORDINARY LOSS TREATMENT FOR CERTAIN
21 PROPERTY.—

22 “(1) IN GENERAL.—Loss on any qualified zone
23 asset (as defined in section 1397(b)) held for more
24 than 2 years (5 years in the case of real property)
25 shall be treated as an ordinary loss.

1 “(2) REAL PROPERTY.—For purposes of para-
2 graph (1), the term ‘real property’ means any prop-
3 erty which is section 1250 property (as defined in
4 section 1250(c)).

5 “(3) SPECIAL RULES.—

6 “(A) CERTAIN RULES MADE APPLICA-
7 BLE.—For purposes of this subsection, rules
8 similar to the following rules shall apply:

9 “(i) Paragraphs (1), (2), and (3) of
10 section 1244(d).

11 “(ii) Subsections (b)(6), (c)(3), (d),
12 (e), and (f) of section 1397.

13 “(B) COORDINATION WITH SECTION
14 1231.—Losses treated as ordinary losses by rea-
15 son of this subsection shall not be taken into
16 account in applying section 1231.

17 **“SEC. 1397C. ENTERPRISE ZONE BUSINESS DEFINED.**

18 “(a) IN GENERAL.—For purposes of this subpart, the
19 term ‘enterprise zone business’ means—

20 “(1) any qualified business entity, and

21 “(2) any qualified proprietorship.

22 “(b) QUALIFIED BUSINESS ENTITY.—For purposes
23 of this section, the term ‘qualified business entity’ means,
24 with respect to any taxable year, any corporation or part-
25 nership if for such year—

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1 “(1)(A) every trade or business of such entity
2 is the active conduct of a qualified business within
3 a tax enterprise zone, and

4 “(B) at least 80 percent of the total gross in-
5 come of such entity is derived from the active con-
6 duct of such business,

7 “(2) substantially all of the use of the tangible
8 property of such entity (whether owned or leased) is
9 within a tax enterprise zone,

10 “(3) substantially all of the intangible property
11 of such entity is used in, and exclusively related to,
12 the active conduct of any such business,

13 “(4) substantially all of the services performed
14 for such entity by its employees are performed in a
15 tax enterprise zone,

16 “(5) at least $\frac{1}{3}$ of its employees are residents
17 of a tax enterprise zone,

18 “(6) less than 5 percent of the average of the
19 aggregate unadjusted bases of the property of such
20 entity is attributable to collectibles (as defined in
21 section 408(m)(2)) other than collectibles that are
22 held primarily for sale to customers in the ordinary
23 course of such business, and

24 “(7) less than 5 percent of the average of the
25 aggregate unadjusted bases of the property of such

1 entity is attributable to nonqualified financial prop-
2 erty.

3 “(c) QUALIFIED PROPRIETORSHIP.—For purposes of
4 this section, the term ‘qualified proprietorship’ means,
5 with respect to any taxable year, any qualified business
6 carried on by an individual as a proprietorship if for such
7 year—

8 “(1) at least 80 percent of the total gross in-
9 come of such individual from such business is de-
10 rived from the active conduct of such business in a
11 tax enterprise zone,

12 “(2) substantially all of the use of the tangible
13 property of such individual in such business (wheth-
14 er owned or leased) is within a tax enterprise zone,

15 “(3) substantially all of the intangible property
16 of such business is used in, and exclusively related
17 to, the active conduct of such business,

18 “(4) substantially all of the services performed
19 for such individual in such business by employees of
20 such business are performed in a tax enterprise
21 zone,

22 “(5) at least $\frac{1}{3}$ of such employees are residents
23 of a tax enterprise zone,

24 “(6) less than 5 percent of the average of the
25 aggregate unadjusted bases of the property of such

1 individual which is used in such business is attrib-
2 utable to collectibles (as defined in section
3 408(m)(2)) other than collectibles that are held pri-
4 marily for sale to customers in the ordinary course
5 of such business, and

6 “(7) less than 5 percent of the average of the
7 aggregate unadjusted bases of the property of such
8 individual which is used in such business is attrib-
9 utable to nonqualified financial property.

10 For purposes of this subsection, the term ‘employee’ in-
11 cludes the proprietor.

12 “(d) QUALIFIED BUSINESS.—For purposes of this
13 section—

14 “(1) IN GENERAL.—Except as otherwise pro-
15 vided in this subsection, the term ‘qualified business’
16 means any trade or business.

17 “(2) RENTAL OF REAL PROPERTY.—The rental
18 to others of real property located in a tax enterprise
19 zone shall be treated as a qualified business if and
20 only if—

21 “(A) in the case of real property which is
22 not residential rental property (as defined in
23 section 168(e)(2)), the lessee is an enterprise
24 zone business, or

“(B) in the case of residential rental property (as so defined)—

“(i) such property was originally placed in service after the date the tax enterprise zone was designated, or

“(ii) such property is rehabilitated after such date in a rehabilitation which meets requirements based on the principles of section 42(e)(3).

“(3) RENTAL OF TANGIBLE PERSONAL PROPERTY.—The rental to others of tangible personal property shall be treated as a qualified business if and only if substantially all of the rental of such property is by enterprise zone businesses or by residents of a tax enterprise zone.

“(4) TREATMENT OF BUSINESS HOLDING INTANGIBLES.—The term ‘qualified business’ shall not include any trade or business consisting predominantly of the development or holding of intangibles for sale or license.

“(5) CERTAIN BUSINESSES EXCLUDED.—The term ‘qualified business’ shall not include—

“(A) any trade or business consisting of the operation of any facility described in section 144(c)(6)(B), and

“(B) any trade or business the principal activity of which is farming (within the meaning of subparagraphs (A) or (B) of section 2032A(e)(5)), but only if, as of the close of the preceding taxable year, the sum of—

“(i) the aggregate unadjusted bases (or, if greater, the fair market value) of the assets owned by the taxpayer which are used in such a trade or business, and

“(ii) the aggregate value of assets leased by the taxpayer which are used in such a trade or business,

exceeds \$500,000.

For purposes of subparagraph (B), rules similar to the rules of section 1395(b) shall apply.

“(e) **NONQUALIFIED FINANCIAL PROPERTY.**—For purposes of this section, the term ‘nonqualified financial property’ means debt, stock, partnership interests, options, futures contracts, forward contracts, warrants, non-tional principal contracts, annuities, and other similar property specified in regulations; except that such term shall not include—

“(1) reasonable amounts of working capital held in cash, cash equivalents, or debt instruments with a term of 18 months or less, or

1 “(2) debt instruments described in section
2 1221(4).

3 **“Subpart C—Regulations**

 “Sec. 1397C. Regulations.

4 **“SEC. 1397C. REGULATIONS.**

5 “The Secretary shall prescribe such regulations as
6 may be necessary or appropriate to carry out the purposes
7 of this part, including—

8 “(1) regulations limiting the benefit of this part
9 in circumstances where such benefits, in combination
10 with benefits provided under other Federal pro-
11 grams, would result in an activity being 100 percent
12 or more subsidized by the Federal Government,

13 “(2) regulations preventing abuse of the provi-
14 sions of this part, and

15 “(3) regulations dealing with inadvertent fail-
16 ures of entities to be qualified zone businesses.”.

17 (b) CLERICAL AMENDMENT.—The table of sub-
18 chapters for chapter 1 of such Code is amended by insert-
19 ing after the item relating to subchapter T the following
20 new item:

 “Subchapter U. Designation and treatment of tax enterprise
 zones.”.

21 **SEC. 412. TECHNICAL AND CONFORMING AMENDMENTS.**

22 (a) ENTERPRISE ZONE EMPLOYMENT CREDIT PART
23 OF GENERAL BUSINESS CREDIT.—

1 (1) Subsection (b) of section 38 of the Internal
2 Revenue Code of 1986 (relating to current year
3 business credit) is amended by striking “plus” at the
4 end of paragraph (6), by striking the period at the
5 end of paragraph (7) and inserting “, plus”, and by
6 adding at the end the following new paragraph:

7 “(8) the enterprise zone employment credit de-
8 termined under section 1394(a).”.

9 (2) Subsection (d) of section 39 of such Code
10 is amended by adding at the end thereof the follow-
11 ing new paragraph:

12 “(3) NO CARRYBACK OF SECTION 1394 CREDIT
13 BEFORE ENACTMENT.—No portion of the unused
14 business credit for any taxable year which is attrib-
15 utable to the enterprise zone employment credit de-
16 termined under section 1394 may be carried to a
17 taxable year ending before the date of the enactment
18 of section 1394.”.

19 (b) NONITEMIZERS ALLOWED DEDUCTION FOR EN-
20 TERPRISE ZONE STOCK.—Subsection (a) of section 62 of
21 such Code is amended by adding at the end thereof the
22 following new paragraph:

23 “(14) ENTERPRISE ZONE STOCK.—The deduc-
24 tion allowed by section 1396.”.

1 (c) DENIAL OF DEDUCTION FOR PORTION OF WAGES
2 EQUAL TO ENTERPRISE ZONE EMPLOYMENT CREDIT.—

3 (1) Subsection (a) of section 280C of such Code
4 (relating to rule for targeted jobs credit) is
5 amended—

6 (A) by striking “the amount of the credit
7 determined for the taxable year under section
8 51(a)” and inserting “the sum of the credits
9 determined for the taxable year under sections
10 51(a) and 1394(a)”, and

11 (B) by striking “TARGETED JOBS CRED-
12 IT” in the subsection heading and inserting
13 “EMPLOYMENT CREDITS”.

14 (2) Subsection (c) of section 196 of such Code
15 (relating to deduction for certain unused business
16 credits) is amended by striking “and” at the end of
17 paragraph (4), by striking the period at the end of
18 paragraph (5) and inserting “, and”, and by adding
19 at the end the following new paragraph:

20 “(6) the enterprise zone employment credit de-
21 termined under section 1394(a).”.

22 (d) OTHER AMENDMENTS.—

23 (1)(A) Section 172(d)(2) of such Code (relating
24 to modifications with respect to net operating loss
25 deduction) is amended to read as follows:

1 “(2) CAPITAL GAINS AND LOSSES OF TAX-
2 PAYERS OTHER THAN CORPORATIONS.—In the case
3 of a taxpayer other than a corporation—

4 “(A) the amount deductible on account of
5 losses from sales or exchanges of capital assets
6 shall not exceed the amount includable on ac-
7 count of gains from sales or exchanges of cap-
8 ital assets; and

9 “(B) the exclusion provided by section
10 1397 shall not be allowed.”.

11 (B) Subparagraph (B) of section 172(d)(4) of
12 such Code is amended by inserting “, (2)(B),” after
13 “paragraph (1)”.

14 (2) Subsection (c) of section 381 of such Code
15 (relating to carryovers in certain corporate acquisi-
16 tions) is amended by adding at the end the following
17 new paragraph:

18 “(26) ENTERPRISE ZONE PROVISIONS.—The
19 acquiring corporation shall take into account (to the
20 extent proper to carry out the purposes of this sec-
21 tion and subchapter U, and under such regulations
22 as may be prescribed by the Secretary) the items re-
23 quired to be taken into account for purposes of sub-
24 chapter U in respect of the distributor or transferor
25 corporation.”.

1 (3) Paragraph (4) of section 642(c) of such
2 Code is amended to read as follows:

3 “(4) ADJUSTMENTS.—To the extent that the
4 amount otherwise allowable as a deduction under
5 this subsection consists of gain described in section
6 1397(a), proper adjustment shall be made for any
7 exclusion allowable to the estate or trust under sec-
8 tion 1397. In the case of a trust, the deduction al-
9 lowed by this subsection shall be subject to section
10 681 (relating to unrelated business income).”.

11 (4) Paragraph (3) of section 643(a) of such
12 Code is amended by adding at the end thereof the
13 following new sentence: “The exclusion under section
14 1397 shall not be taken into account.”.

15 (5) Paragraph (4) of section 691(c) of such
16 Code is amended by striking “1201, and 1211” and
17 inserting “1201, 1397, and 1211”.

18 (6) The second sentence of paragraph (2) of
19 section 871(a) of such Code is amended by inserting
20 “such gains and losses shall be determined without
21 regard to section 1397 and” after “except that”.

22 (7) Paragraph (1) of section 1371(d) of such
23 Code (relating to coordination with investment credit
24 recapture) is amended by inserting before the period

1 at the end the following “and for purposes of section
2 1394(d)(3)”.

3 (8) Subsection (a) of section 1016 of such Code
4 (relating to adjustments to basis) is amended by
5 striking “and” at the end of paragraph (23), by
6 striking the period at the end of paragraph (24) and
7 inserting a semicolon, and by adding at the end
8 thereof the following new paragraphs:

9 “(25) in the case of stock with respect to which
10 a deduction was allowed under section 1396(a), to
11 the extent provided in section 1396(e); and

12 “(26) in the case of property the acquisition of
13 which resulted under section 1397A in the non-
14 recognition of any part of the gain realized on the
15 sale or exchange of other property, to the extent pro-
16 vided in section 1397A(e).”.

17 (9) Section 1223 of such Code (relating to hold-
18 ing period of property) is amended by redesignating
19 paragraph (15) as paragraph (16) and by inserting
20 after paragraph (14) the following new paragraph:

21 “(15) In determining the period for which the
22 taxpayer has held property the acquisition of which
23 resulted under section 1397A in the nonrecognition
24 of any part of the gain realized on the sale or ex-
25 change of any qualified zone asset (as defined in sec-

1 tion 1397A(b)), there shall be included the period
2 for which such asset had been held as of the date
3 of such sale or exchange.”.

4 **SEC. 413. EFFECTIVE DATE.**

5 (a) **GENERAL RULE.**—The amendments made by this
6 subtitle shall take effect on the date of the enactment of
7 this Act.

8 (b) **REQUIREMENT FOR RULES.**—Not later than the
9 date 4 months after the date of the enactment of this Act,
10 the appropriate Secretaries shall issue rules—

11 (1) establishing the procedures for nominating
12 areas for designation as tax enterprise zones,

13 (2) establishing a method for comparing the
14 factors listed in section 1392(d) of the Internal Rev-
15 enue Code of 1986 (as added by this part),

16 (3) establishing recordkeeping requirements
17 necessary or appropriate to assist the studies re-
18 quired by subtitle E, and

19 (4) providing that State and local governments
20 shall have at least 30 days after such rules are pub-
21 lished to file applications for nominated areas before
22 such applications are evaluated and compared and
23 any area designated as a tax enterprise zone.

1 **Subtitle B—Redevelopment Bonds**
2 **for Tax Enterprise Zones**

3 **SEC. 421. SPECIAL RULES FOR REDEVELOPMENT BONDS**
4 **PROVIDING FINANCING FOR TAX ENTER-**
5 **PRISE ZONES.**

6 (a) IN GENERAL.—Subsection (c) of section 144 of
7 the Internal Revenue Code of 1986 (relating to qualified
8 redevelopment bonds) is amended by adding at the end
9 thereof the following new paragraph:

10 “(9) SPECIAL RULES FOR TAX ENTERPRISE
11 ZONES.—For purposes of this subsection, in the case
12 of bonds issued during the 60-month period begin-
13 ning on the date a tax enterprise zone is
14 designated—

15 “(A) TREATMENT AS DESIGNATED
16 BLIGHTED AREA.—Such tax enterprise zone
17 shall be treated as a designated blighted area
18 during such 60-month period (or, if shorter, the
19 period such designation is in effect). Any area
20 designated by reason of the preceding sentence
21 shall not be taken into account in applying
22 paragraph (4)(C).

23 “(B) SECURITY FOR BONDS.—The require-
24 ments of paragraph (2)(B) shall be treated as
25 met with respect to a financed area that is

1 within a tax enterprise zone if the general pur-
 2 pose governmental unit guarantees the payment
 3 of principal and interest on the issue either di-
 4 rectly or through insurance, a letter of credit,
 5 or a similar agreement but only if the cost
 6 thereof is financed other than with proceeds of
 7 any tax-exempt private activity bond or earn-
 8 ings on such proceeds.

9 “(C) EXPANSION OF REDEVELOPMENT
 10 PURPOSES.—

11 “(i) IN GENERAL.—The term ‘redevel-
 12 opment purposes’ includes the making of
 13 loans to any enterprise zone business (as
 14 defined in section 1397B) for—

15 “(I) the acquisition of land with-
 16 in the tax enterprise zone for use in
 17 such business, or

18 “(II) the acquisition, construc-
 19 tion, reconstruction, or improvement
 20 by such business of land, or property
 21 of a character subject to the allowance
 22 for depreciation, for use in such busi-
 23 ness.

24 “(ii) \$2,500,000 LIMITATION.—Clause
 25 (i) shall apply to loans made to any enter-

prise zone business only if the aggregate principal amount of such loans (whether or not financed by the same issue) does not exceed \$2,500,000. For purposes of the preceding sentence, all persons treated as a single employer under subsection (a) or (b) of section 52 shall be treated as 1 person.

“(iii) LOANS MUST BE MADE WITHIN 18 MONTHS AFTER BONDS ISSUED; REPAYMENTS MUST BE USED FOR REDEMPTIONS.—Clause (i) shall apply only to loans—

“(I) made during the 18-month period beginning on the date of issuance of the issue financing such loan,

“(II) repayments of principal on which are used not later than the close of the 1st semiannual period beginning after the date the repayment is received to redeem bonds which are part of such issue, and

“(III) the effective rate of interest on which does not exceed the yield on the issue by more than 0.125 percentage points.

1 In determining the effective rate of interest
2 for purposes of subclause (III), there shall
3 be taken into account all fees, charges, and
4 other amounts (other than amounts for
5 any credit report) borne by the borrower
6 which are attributable to the loan or the
7 bond issue.

8 “(iv) HOUSING LOANS EXCLUDED.—
9 Clause (i) shall not apply to any loan to be
10 used directly or indirectly to provide resi-
11 dential real property.

12 “(v) COORDINATION WITH RESTRIC-
13 TIONS ON USE OF PROCEEDS.—Paragraphs
14 (6) and (8) shall apply notwithstanding
15 clause (i); except that in applying para-
16 graph (6), subsection (a)(8) shall be treat-
17 ed as not including a reference to a facility
18 the primary purpose of which is retail food
19 services.

20 “(D) ISSUER TO DESIGNATE AMOUNT OF
21 ISSUE TO BE USED FOR LOANS.—Subparagraph
22 (C) shall not apply with respect to any issue
23 unless the issuer designates before the date of
24 issuance the amount of the proceeds of such
25 issue which is to be used for loans to which

1 subparagraph (C)(i) applies. If such amount ex-
2 ceeds the principal amount of loans to which
3 subparagraph (C)(i) applies, an amount of pro-
4 ceeds equal to such excess shall be used not
5 later than the close of the 1st semiannual pe-
6 riod beginning after the close of the 18-month
7 period referred to in subparagraph (C)(iii) to
8 redeem bonds which are part of such issue.

9 “(E) DE MINIMIS REDEMPTIONS NOT RE-
10 QUIRED.—Subparagraphs (C)(iii) and (D) shall
11 not be construed to require amounts of less
12 than \$250,000 to be used to redeem bonds. The
13 Secretary may by regulation treat related issues
14 as 1 issue for purposes of the preceding sen-
15 tence.

16 “(F) PENALTY.—

17 “(i) IN GENERAL.—In the case of
18 property with respect to which financing
19 was provided under this paragraph, if at
20 any time during the 10-period beginning
21 on the date such financing was provided—

22 “(I) such property ceases to be in
23 use in an enterprise zone business (as
24 defined in section 1397B), or

1 “(II) substantially all of the use
2 of such property ceases to be in a tax
3 enterprise zone,

4 there is hereby imposed on the trade or
5 business to which such financing was pro-
6 vided a penalty equal to 1.25 percent of so
7 much of the face amount of all financing
8 provided (whether or not from the same
9 issue and whether or not such issue is out-
10 standing) before such cessation to the
11 trade or business using such property.

12 “(ii) NO PENALTY BY REASON OF
13 ZONE TERMINATION.—No penalty shall be
14 imposed under clause (i) solely by reason
15 of the termination or revocation of a tax
16 enterprise zone designation.

17 “(iii) EXCEPTION FOR BANK-
18 RUPTCY.—Clause (i) shall not apply to any
19 cessation resulting from bankruptcy.”.

20 (b) VOLUME CAP ONLY CHARGED WITH 50 PER-
21 CENT OF TAX ENTERPRISE ZONE REDEVELOPMENT
22 BONDS.—Subsection (g) of section 146 of such Code is
23 amended by striking “and” at the end of paragraph (3),
24 by striking the period at the end of paragraph (4) and

1 inserting “, and”, and by adding at the end thereof the
2 following new paragraph:

3 “(5) 50 percent of any qualified redevelopment
4 bond issued—

5 “(A) as part of an issue 95 percent or
6 more of the net proceeds of which are to be
7 used for 1 or more redevelopment purposes (as
8 defined in section 144(c)) in a tax enterprise
9 zone, and

10 “(B) during the 60-month period begin-
11 ning on the date of the designation of such
12 zone.”.

13 (c) PENALTIES FOR LOANS MADE TO BUSINESSES
14 THAT CEASE TO BE ENTERPRISE ZONE BUSINESSES,
15 ETC.—Subsection (b) of section 150 of such Code is
16 amended by adding at the end thereof the following new
17 paragraph:

18 “(6) ENTERPRISE ZONE REDEVELOPMENT
19 BONDS.—In the case of any financing provided by
20 an issue the interest on which is exempt from tax by
21 reason of section 144(c)(9)—

22 “(A) IN GENERAL.—No deduction shall be
23 allowed under this chapter for interest on such
24 financing which accrues during the period be-

1 ginning on the first day of the calendar year
2 which includes the date on which—

3 “(i) the trade or business to which the
4 financing was provided ceases to be an en-
5 terprise zone business (as defined in sec-
6 tion 1397B), or

7 “(ii) substantially all of the use of the
8 property (determined in accordance with
9 subchapter U) with respect to which the fi-
10 nancing was provided ceases to be in a tax
11 enterprise zone.

12 The preceding sentence shall not apply solely by
13 reason of the termination or revocation of a tax
14 enterprise zone designation.

15 “(B) EXCEPTION FOR BANKRUPTCY.—This
16 paragraph shall not apply to any cessation re-
17 sulting from bankruptcy.”.

18 **Subtitle C—Credit for Contribu-** 19 **tions to Certain Community De-** 20 **velopment Corporations**

21 **SEC. 431. CREDIT FOR CONTRIBUTIONS TO CERTAIN COM-** 22 **MUNITY DEVELOPMENT CORPORATIONS.**

23 (a) IN GENERAL.—For purposes of section 38 of the
24 Internal Revenue Code of 1986, the current year business

1 credit shall include the credit determined under this sec-
2 tion.

3 (b) DETERMINATION OF CREDIT.—The credit deter-
4 mined under this section for each taxable year in the credit
5 period with respect to any qualified CDC contribution
6 made by the taxpayer is an amount equal to 5 percent
7 of such contribution.

8 (c) CREDIT PERIOD.—For purposes of this section,
9 the credit period with respect to any qualified CDC con-
10 tribution is the period of 10 taxable years beginning with
11 the taxable year during which such contribution was made.

12 (d) QUALIFIED CDC CONTRIBUTION.—For purposes
13 of this section—

14 (1) IN GENERAL.—The term “qualified CDC
15 contribution” means any transfer of cash—

16 (A) which is made to a selected community
17 development corporation during the 5-year pe-
18 riod beginning on the date such corporation was
19 selected for purposes of this section,

20 (B) the amount of which is available for
21 use by such corporation for at least 10 years,

22 (C) which is to be used by such corpora-
23 tion for qualified low-income assistance within
24 its operational area, and

1 (D) which is designated by such corpora-
2 tion for purposes of this section.

3 (2) LIMITATIONS ON AMOUNT DESIGNATED.—

4 The aggregate amount of contributions to a selected
5 community development corporation which may be
6 designated by such corporation shall not exceed
7 \$2,000,000.

8 (e) SELECTED COMMUNITY DEVELOPMENT COR-
9 PORATIONS.—

10 (1) IN GENERAL.—For purposes of this section,
11 the term “selected community development corpora-
12 tion” means any corporation—

13 (A) which is described in section 501(c)(3)
14 of such Code and exempt from tax under sec-
15 tion 501(a) of such Code,

16 (B) the principal purposes of which include
17 promoting employment of, and business oppor-
18 tunities for, low-income individuals who are
19 residents of the operational area, and

20 (C) which is selected by the Secretary of
21 Housing and Urban Development for purposes
22 of this section.

23 (2) ONLY 10 CORPORATIONS MAY BE SE-
24 LECTED.—

1 (A) IN GENERAL.—The Secretary of Hous-
2 ing and Urban Development may select 10 cor-
3 porations for purposes of this section, subject to
4 the availability of eligible corporations. Such se-
5 lections may be made only before January 1,
6 1995. At least 4 of the operational areas of the
7 corporations selected must be rural areas (as
8 defined by section 1393(6) of such Code).

9 (B) PRIORITY OF DESIGNATIONS.—In se-
10 lecting corporations for purposes of this section,
11 such Secretary shall give priority to corpora-
12 tions with a demonstrated record of perform-
13 ance in administering community development
14 programs which target at least 75 percent of
15 the jobs emanating from their investment funds
16 to low income or unemployed individuals.

17 (3) OPERATIONAL AREAS MUST HAVE CERTAIN
18 CHARACTERISTICS.—A corporation may be selected
19 for purposes of this section only if its operational
20 area meets the following criteria:

21 (A) The area meets the size requirements
22 under paragraph (1)(C) or (2)(C) of section
23 1391(b) which would apply if such area were to
24 be designated as a tax enterprise zone.

1 (B) The unemployment rate (as deter-
2 mined by the appropriate available data) is not
3 less than the national unemployment rate.

4 (C) The median family income of residents
5 of such area does not exceed 80 percent of the
6 median gross income of residents of the juris-
7 diction of the local government which includes
8 such area.

9 (f) QUALIFIED LOW-INCOME ASSISTANCE.—For pur-
10 poses of this section, the term “qualified low-income as-
11 sistance” means assistance—

12 (1) which is designed to provide employment of,
13 and business opportunities for, low-income individ-
14 uals who are residents of the operational area of the
15 community development corporation, and

16 (2) which is approved by the Secretary of Hous-
17 ing and Urban Development.

18 **Subtitle D—Indian Employment**
19 **and Investment**

20 **SEC. 441. INVESTMENT TAX CREDIT FOR PROPERTY ON IN-**
21 **DIAN RESERVATIONS.**

22 (a) ALLOWANCE OF INDIAN RESERVATION CRED-
23 IT.—Section 46 of the Internal Revenue Code of 1986 (re-
24 lating to investment credits) is amended by striking “and”
25 at the end of paragraph (2), by striking the period at the

1 end of paragraph (3) and inserting “, and”, and by adding
2 after paragraph (3) the following new paragraph:

3 “(4) the Indian reservation credit.”.

4 (b) AMOUNT OF INDIAN RESERVATION CREDIT.—

5 (1) IN GENERAL.—Section 48 of such Code (re-
6 lating to the energy credit and the reforestation
7 credit) is amended by adding after subsection (b)
8 the following new subsection:

9 “(c) INDIAN RESERVATION CREDIT.—

10 “(1) IN GENERAL.—For purposes of section 46,
11 the Indian reservation credit for any taxable year is
12 the Indian reservation percentage of the qualified in-
13 vestment in qualified Indian reservation property
14 placed in service during such taxable year, deter-
15 mined in accordance with the following table:

“In the case of qualified

Indian reservation property which is:	The Indian reservation percentage is:
Reservation personal property	10
New reservation construction property	15
Reservation infrastructure investment	15.

16 “(2) QUALIFIED INVESTMENT IN QUALIFIED
17 INDIAN RESERVATION PROPERTY DEFINED.—For
18 purposes of this subpart—

19 “(A) IN GENERAL.—The term ‘qualified
20 Indian reservation property’ means property—

21 “(i) which is—

1 “(I) reservation personal prop-
2 erty,

3 “(II) new reservation construc-
4 tion property, or

5 “(III) reservation infrastructure
6 investment, and

7 “(ii) not acquired (directly or indi-
8 rectly) by the taxpayer from a person who
9 is related to the taxpayer (within the
10 meaning of section 465(b)(3)(C)).

11 The term ‘qualified Indian reservation property’
12 does not include any property (or any portion
13 thereof) placed in service for purposes of con-
14 ducting or housing class I, II, or III gaming (as
15 defined in section 4 of the Indian Regulatory
16 Act (25 U.S.C. 2703)).

17 “(B) QUALIFIED INVESTMENT.—The term
18 ‘qualified investment’ means—

19 “(i) in the case of reservation infra-
20 structure investment, the amount expended
21 by the taxpayer for the acquisition or con-
22 struction of the reservation infrastructure
23 investment; and

1 “(ii) in the case of all other qualified
2 Indian reservation property, the tax-
3 payer’s basis for such property.

4 “(C) RESERVATION PERSONAL PROP-
5 ERTY.—The term ‘reservation personal prop-
6 erty’ means qualified personal property which is
7 used by the taxpayer predominantly in the ac-
8 tive conduct of a trade or business within an
9 Indian reservation. Property shall not be treat-
10 ed as ‘reservation personal property’ if it is
11 used or located outside the Indian reservation
12 on a regular basis.

13 “(D) QUALIFIED PERSONAL PROPERTY.—
14 The term ‘qualified personal property’ means
15 property—

16 “(i) for which depreciation is allow-
17 able under section 168,

18 “(ii) which is not—

19 “(I) nonresidential real property,

20 “(II) residential rental property,

21 or

22 “(III) real property which is not
23 described in (I) or (II) and which has
24 a class life of more than 12.5 years.

1 For purposes of this subparagraph, the terms
2 ‘nonresidential real property’, ‘residential rental
3 property’, and ‘class life’ have the respective
4 meanings given such terms by section 168.

5 “(E) NEW RESERVATION CONSTRUCTION
6 PROPERTY.—The term ‘new reservation con-
7 struction property’ means qualified real
8 property—

9 “(i) which is located in an Indian res-
10 ervation,

11 “(ii) which is used by the taxpayer
12 predominantly in the active conduct of a
13 trade or business within an Indian reserva-
14 tion, and

15 “(iii) which is originally placed in
16 service by the taxpayer.

17 “(F) QUALIFIED REAL PROPERTY.—The
18 term ‘qualified real property’ means property
19 for which depreciation is allowable under sec-
20 tion 168 and which is described in clause (I),
21 (II), or (III) of subparagraph (D)(ii).

22 “(G) RESERVATION INFRASTRUCTURE IN-
23 VESTMENT.—

24 “(i) IN GENERAL.—The term ‘reserva-
25 tion infrastructure investment’ means

1 qualified personal property or qualified real
2 property which—

3 “(I) benefits the tribal infrastruc-
4 ture,

5 “(II) is available to the general
6 public, and

7 “(III) is placed in service in con-
8 nection with the taxpayer’s active con-
9 duct of a trade or business within an
10 Indian reservation.

11 “(ii) PROPERTY MAY BE LOCATED
12 OUTSIDE THE RESERVATION.—Qualified
13 personal property and qualified real prop-
14 erty used or located outside an Indian res-
15 ervation shall be reservation infrastructure
16 investment only if its purpose is to connect
17 to existing tribal infrastructure in the res-
18 ervation, and shall include, but not be lim-
19 ited to, roads, power lines, water systems,
20 railroad spurs, and communications facili-
21 ties.

22 “(H) COORDINATION WITH OTHER CRED-
23 ITS.—The term ‘qualified Indian reservation
24 property’ shall not include any property with re-

1 spect to which the energy credit or the rehabili-
2 tation credit is allowed.

3 “(3) REAL ESTATE RENTALS.—For purposes of
4 this section, the rental to others of real property lo-
5 cated within an Indian reservation shall be treated
6 as the active conduct of a trade or business in an
7 Indian reservation.

8 “(4) INDIAN RESERVATION DEFINED.—For
9 purposes of this subpart, the term ‘Indian reserva-
10 tion’ means a reservation, as defined in—

11 “(A) section 3(d) of the Indian Financing
12 Act of 1974 (25 U.S.C. 1452(d)), or

13 “(B) section 4(10) of the Indian Child
14 Welfare Act of 1978 (25 U.S.C. 1903(10)).

15 “(5) LIMITATION BASED ON UNEMPLOY-
16 MENT.—

17 “(A) GENERAL RULE.—The Indian res-
18 ervation credit allowed under section 46 for any
19 taxable year shall equal—

20 “(i) if the Indian unemployment rate
21 on the applicable Indian reservation for
22 which the credit is sought exceeds 300 per-
23 cent of the national average unemployment
24 rate at any time during the calendar year
25 in which the property is placed in service

1 or during the immediately preceding 2 cal-
2 endar years, 100 percent of such credit,

3 “(ii) if such Indian unemployment
4 rate exceeds 150 percent but not 300 per-
5 cent, 50 percent of such credit, and

6 “(iii) if such Indian unemployment
7 rate does not exceed 150 percent, 0 per-
8 cent of such credit.

9 “(B) SPECIAL ‘RULE FOR LARGE
10 PROJECTS.—In the case of a qualified Indian
11 reservation property which has (or is a compo-
12 nent of a project which has) a projected con-
13 struction period of more than 2 years or a cost
14 of more than \$1,000,000, subparagraph (A)
15 shall apply by substituting ‘during the earlier of
16 the calendar year in which the taxpayer enters
17 into a binding agreement to make a qualified
18 investment or the first calendar year in which
19 the taxpayer has expended at least 10 percent
20 of the taxpayer’s qualified investment, or the
21 preceding calendar year’ for ‘during the cal-
22 endar year in which the property is placed in
23 service or during the immediately preceding 2
24 calendar years’.

1 “(C) DETERMINATION OF INDIAN UNEM-
2 PLOYMENT.—For purposes of this paragraph,
3 with respect to any Indian reservation, the In-
4 dian unemployment rate shall be based upon
5 Indians unemployed and able to work, and shall
6 be certified by the Secretary of the Interior.

7 “(6) COORDINATION WITH NONREVENUE
8 LAWS.—Any reference in this subsection to a provi-
9 sion not contained in this title shall be treated for
10 purposes of this subsection as a reference to such
11 provision as in effect on the date of the enactment
12 of this paragraph.”.

13 (2) LODGING TO QUALIFY.—Paragraph (2) of
14 section 50(b) of such Code (relating to property used
15 for lodging) is amended—

16 (A) by striking “and” at the end of sub-
17 paragraph (C),

18 (B) by striking the period at the end of
19 subparagraph (D) and inserting “; and” and

20 (C) by adding at the end thereof the fol-
21 lowing subparagraph:

22 “(E) new reservation construction prop-
23 erty.”.

24 (c) RECAPTURE.—Subsection (a) of section 50 of
25 such Code (relating to recapture in case of dispositions,

1 etc.), is amended by adding at the end thereof the follow-
2 ing new paragraph:

3 “(6) SPECIAL RULES FOR INDIAN RESERVATION
4 PROPERTY.—

5 “(A) IN GENERAL.—If, during any taxable
6 year, property with respect to which the tax-
7 payer claimed an Indian reservation credit—

8 “(i) is disposed of, or

9 “(ii) in the case of reservation per-
10 sonal property—

11 “(I) otherwise ceases to be in-
12 vestment credit property with respect
13 to the taxpayer, or

14 “(II) is removed from the Indian
15 reservation, converted or otherwise
16 ceases to be Indian reservation prop-
17 erty,

18 the tax under this chapter for such taxable year
19 shall be increased by the amount described in
20 subparagraph (B).

21 “(B) AMOUNT OF INCREASE.—The in-
22 crease in tax under subparagraph (A) shall
23 equal the aggregate decrease in the credits al-
24 lowed under section 38 by reason of section
25 48(c) for all prior taxable years which would

1 have resulted had the qualified investment
2 taken into account with respect to the property
3 been limited to an amount which bears the
4 same ratio to the qualified investment with re-
5 spect to such property as the period such prop-
6 erty was held by the taxpayer bears to the ap-
7 plicable recovery period under section 168(g).

8 “(C) COORDINATION WITH OTHER RECAP-
9 TURE PROVISIONS.—In the case of property to
10 which this paragraph applies, paragraph (1)
11 shall not apply and the rules of paragraphs (3),
12 (4), and (5) shall apply.”.

13 (d) BASIS ADJUSTMENT TO REFLECT INVESTMENT
14 CREDIT.—Paragraph (3) of section 50(c) of such Code
15 (relating to basis adjustment to investment credit prop-
16 erty) is amended by striking “energy credit or reforest-
17 ation credit” and inserting “energy credit, reforestation
18 credit or Indian reservation credit other than with respect
19 to any expenditure for new reservation construction prop-
20 erty”.

21 (e) CERTAIN GOVERNMENTAL USE PROPERTY TO
22 QUALIFY.—Paragraph (4) of section 50(b) of such Code
23 (relating to property used by governmental units or for-
24 eign persons or entities) is amended by redesignating sub-
25 paragraphs (D) and (E) as subparagraphs (E) and (F),

1 respectively, and inserting after subparagraph (C) the fol-
 2 lowing new subparagraph:

3 “(D) EXCEPTION FOR RESERVATION IN-
 4 FRASTRUCTURE INVESTMENT.—This paragraph
 5 shall not apply for purposes of determining the
 6 Indian reservation credit with respect to res-
 7 ervation infrastructure investment.”.

8 (f) APPLICATION OF AT-RISK RULES.—Subpara-
 9 graph (C) of section 49(a)(1) of such Code is amended
 10 by striking “and” at the end of clause (ii), by striking
 11 the period at the end of clause (iii) and inserting “, and”,
 12 and by adding at the end the following new clause:

13 “(iv) the qualified investment in quali-
 14 fied Indian reservation property.”.

15 (g) CLERICAL AMENDMENTS.—

16 (1) The caption of section 48 of such Code is
 17 amended by deleting the period at the end thereof
 18 and adding “; indian reservation credit.”

19 (2) The table of sections for subpart E of part
 20 IV of subchapter A of chapter 1 of such Code is
 21 amended by striking out the item relating to section
 22 48 and inserting the following:

“Sec. 48. Energy credit; reforestation credit; Indian reservation
 credit.”.

1 (h) **EFFECTIVE DATE.**—The amendments made by
 2 this section shall apply to property placed in service after
 3 December 31, 1993.

4 **SEC. 442. INDIAN EMPLOYMENT CREDIT.**

5 (a) **ALLOWANCE OF INDIAN EMPLOYMENT CRED-**
 6 **IT.**—Section 38(b) of the Internal Revenue Code of 1986
 7 (relating to general business credits), as amended by sec-
 8 tion 412, is amended by striking “plus” at the end of
 9 paragraph (7), by striking the period at the end of para-
 10 graph (8) and inserting “, plus”, and by adding after
 11 paragraph (8) the following new paragraph:

12 “(9) the Indian employment credit as deter-
 13 mined under section 45(a).”.

14 (b) **AMOUNT OF INDIAN EMPLOYMENT CREDIT.**—
 15 Subpart D of Part IV of subchapter A of chapter 1 of
 16 such Code (relating to business related credits) is amended
 17 by adding at the end thereof the following new section:

18 **“SEC. 45. INDIAN EMPLOYMENT CREDIT.**

19 “(a) **AMOUNT OF CREDIT.**—

20 “(1) **IN GENERAL.**—For purposes of section 38,
 21 the amount of the Indian employment credit deter-
 22 mined under this section with respect to any em-
 23 ployer for any taxable year is 10 percent (30 percent
 24 in the case of an employer with at least 85 percent

1 Indian employees throughout the taxable year) of
2 the sum of—

3 “(A) the qualified wages paid or incurred
4 during such taxable year, plus

5 “(B) qualified employee health insurance
6 costs paid or incurred during such taxable year.

7 In no event shall the amount of the Indian employ-
8 ment credit for any taxable year exceed the credit
9 limitation amount determined under subsection (e)
10 for such taxable year.

11 “(2) INDIAN EMPLOYEE.—For purposes of
12 paragraph (1), the term ‘Indian employee’ means an
13 employee who is an enrolled member of an Indian
14 tribe or the spouse of such a member.

15 “(b) QUALIFIED WAGES; QUALIFIED EMPLOYEE
16 HEALTH INSURANCE COSTS.—For purposes of this
17 section—

18 “(1) QUALIFIED WAGES.—

19 “(A) IN GENERAL.—The term ‘qualified
20 wages’ means any wages paid or incurred by an
21 employer for services performed by an employee
22 while such employee is a qualified employee.

23 “(B) COORDINATION WITH TARGETED
24 JOBS CREDIT.—The term ‘qualified wages’ shall
25 not include wages attributable to service ren-

1 dered during the 1-year period beginning with
2 the day the individual begins work for the em-
3 ployer if any portion of such wages is taken
4 into account in determining the credit under
5 section 51.

6 “(2) QUALIFIED EMPLOYEE HEALTH INSUR-
7 ANCE COSTS.—

8 “(A) IN GENERAL.—The term ‘qualified
9 employee health insurance costs’ means any
10 amount paid or incurred by an employer for
11 health insurance to the extent such amount is
12 attributable to coverage provided to any em-
13 ployee while such employee is a qualified em-
14 ployee.

15 “(B) EXCEPTION FOR AMOUNTS PAID
16 UNDER SALARY REDUCTION ARRANGEMENTS.—

17 No amount paid or incurred for health insur-
18 ance pursuant to a salary reduction arrange-
19 ment shall be taken into account under sub-
20 paragraph (A).

21 “(c) QUALIFIED EMPLOYEE.—For purposes of this
22 section—

23 “(1) IN GENERAL.—Except as otherwise pro-
24 vided in this subsection, the term ‘qualified em-

1 'employee' means, with respect to any period, any em-
2 ployee of an employer if—

3 “(A) substantially all of the services per-
4 formed during such period by such employee for
5 such employer are performed within an Indian
6 reservation,

7 “(B) the principal place of abode of such
8 employee while performing such services is on
9 or near the reservation in which the services are
10 performed, and

11 “(C) the employee began work for such
12 employer on or after January 1, 1993.

13 “(2) CREDIT ALLOWED ONLY FOR FIRST 7
14 YEARS.—An employee shall not be treated as a
15 qualified employee for any period after the date 7
16 years after the day on which such employee first
17 began work for the employer.

18 “(3) INDIVIDUALS RECEIVING WAGES IN EX-
19 CESS OF \$30,000 NOT ELIGIBLE.—An employee shall
20 not be treated as a qualified employee for any tax-
21 able year of the employer if the total amount of the
22 wages paid or incurred by such employer to such
23 employee during such taxable year (whether or not
24 for services within an Indian reservation) exceeds
25 the amount determined at an annual rate of

1 \$30,000. The Secretary shall adjust the \$30,000
2 amount contained in the preceding sentence for
3 years beginning after 1993 at the same time and in
4 the same manner as under section 415(d).

5 “(4) EMPLOYMENT MUST BE TRADE OR BUSI-
6 NESS EMPLOYMENT.—An employee shall be treated
7 as a qualified employee for any taxable year of the
8 employer only if more than 50 percent of the wages
9 paid or incurred by the employer to such employee
10 during such taxable year are for services performed
11 in a trade or business of the employer. Any deter-
12 mination as to whether the preceding sentence ap-
13 plies with respect to any employee for any taxable
14 year shall be made without regard to subsection
15 (f)(2).

16 “(5) CERTAIN EMPLOYEES NOT ELIGIBLE.—
17 The term ‘qualified employee’ shall not include—

18 “(A) any individual described in subpara-
19 graph (A), (B), or (C) of section 51(i)(1),

20 “(B) any 5-percent owner (as defined in
21 section 416(i)(1)(B)),

22 “(C) any individual who is neither an en-
23 rolled member of an Indian tribe nor the spouse
24 of an enrolled member of an Indian tribe, and

1 “(D) any individual if the services per-
2 formed by such individual for the employer in-
3 volve the conduct of class I, II, or III gaming
4 as defined in section 4 of the Indian Gaming
5 Regulatory Act (25 U.S.C. 2703), or are per-
6 formed in a building housing such gaming ac-
7 tivity.

8 “(6) INDIAN TRIBE DEFINED.—The term ‘In-
9 dian tribe’ means any Indian tribe, band, nation,
10 pueblo, or other organized group or community, in-
11 cluding any Alaska Native village, or regional or vil-
12 lage corporation, as defined in, or established pursu-
13 ant to, the Alaska Native Claims Settlement Act (43
14 U.S.C. 1601 et seq.) which is recognized as eligible
15 for the special programs and services provided by
16 the United States to Indians because of their status
17 as Indians.

18 “(7) INDIAN RESERVATION DEFINED.—The
19 term ‘Indian reservation’ means a reservation, as de-
20 fined in—

21 “(A) section 3(d) of the Indian Financing
22 Act of 1974 (25 U.S.C. 1452(d)), or

23 “(B) section 4(10) of the Indian Child
24 Welfare Act of 1978 (25 U.S.C. 1903 (10)).

1 “(d) EARLY TERMINATION OF EMPLOYMENT BY EM-
2 PLOYER.—

3 “(1) IN GENERAL.—If the employment of any
4 employee is terminated by the taxpayer before the
5 day 1 year after the day on which such employee
6 began work for the employer—

7 “(A) no wages (or qualified employee
8 health insurance costs) with respect to such em-
9 ployee shall be taken into account under sub-
10 section (a) for the taxable year in which such
11 employment is terminated, and

12 “(B) the tax under this chapter for the
13 taxable year in which such employment is ter-
14 minated shall be increased by the aggregate
15 credits (if any) allowed under section 38(a) for
16 prior taxable years by reason of wages (or
17 qualified employee health insurance costs) taken
18 into account with respect to such employee.

19 “(2) CARRYBACKS AND CARRYOVERS AD-
20 JUSTED.—In the case of any termination of employ-
21 ment to which paragraph (1) applies, the carrybacks
22 and carryovers under section 39 shall be properly
23 adjusted.

24 “(3) SUBSECTION NOT TO APPLY IN CERTAIN
25 CASES.—

1 “(A) IN GENERAL.—Paragraph (1) shall
2 not apply to—

3 “(i) a termination of employment of
4 an employee who voluntarily leaves the em-
5 ployment of the taxpayer,

6 “(ii) a termination of employment of
7 an individual who before the close of the
8 period referred to in paragraph (1) be-
9 comes disabled to perform the services of
10 such employment unless such disability is
11 removed before the close of such period
12 and the taxpayer fails to offer reemploy-
13 ment to such individual, or

14 “(iii) a termination of employment of
15 an individual if it is determined under the
16 applicable State unemployment compensa-
17 tion law that the termination was due to
18 the misconduct of such individual.

19 “(B) CHANGES IN FORM OF BUSINESS.—
20 For purposes of paragraph (1), the employment
21 relationship between the taxpayer and an em-
22 ployee shall not be treated as terminated—

23 “(i) by a transaction to which section
24 381(a) applies if the employee continues to

1 be employed by the acquiring corporation,
2 or

3 “(ii) by reason of a mere change in
4 the form of conducting the trade or busi-
5 ness of the taxpayer if the employee con-
6 tinues to be employed in such trade or
7 business and the taxpayer retains a sub-
8 stantial interest in such trade or business.

9 “(4) SPECIAL RULE.—Any increase in tax
10 under paragraph (1) shall not be treated as a tax
11 imposed by this chapter for purposes of—

12 “(A) determining the amount of any credit
13 allowable under this chapter, and

14 “(B) determining the amount of the tax
15 imposed by section 55.

16 “(e) CREDIT LIMITATION AMOUNT.—For purposes of
17 this section—

18 “(1) CREDIT LIMITATION AMOUNT.—The credit
19 limitation amount for a taxable year shall be an
20 amount equal to the credit rate (10 or 30 percent
21 as determined under subsection (a)) multiplied by
22 the increased credit base.

23 “(2) INCREASED CREDIT BASE.—The increased
24 credit base for a taxable year shall be the excess
25 of—

1 “(A) the sum of any qualified wages and
2 qualified employee health insurance costs paid
3 or incurred by the employer during the taxable
4 year with respect to employees whose wages
5 (paid or incurred by the employer) during the
6 taxable year do not exceed the amount deter-
7 mined under paragraph (3) of subsection (c),
8 over

9 “(B) the sum of any qualified wages and
10 qualified employee health insurance costs paid
11 or incurred by the employer (or any prede-
12 cessor) during calendar year 1993 with respect
13 to employees whose wages (paid or incurred by
14 the employer or any predecessor) during 1993
15 did not exceed \$30,000.

16 “(3) SPECIAL RULE FOR SHORT TAXABLE
17 YEARS.—For any taxable year having less than 12
18 months—

19 “(A) the amounts paid or incurred by the
20 employer shall be annualized for purposes of de-
21 termining the increased credit base, and

22 “(B) the credit limitation amount shall be
23 multiplied by a fraction, the numerator of which
24 is the number of days in the taxable year and
25 the denominator of which is 365.

1 “(f) OTHER DEFINITIONS AND SPECIAL RULES.—

2 For purposes of this section—

3 “(1) WAGES.—The term ‘wages’ has the same
4 meaning given to such term in section 51.

5 “(2) CONTROLLED GROUPS.—

6 “(A) All employers treated as a single em-
7 ployer under section (a) or (b) of section 52
8 shall be treated as a single employer for pur-
9 poses of this section.

10 “(B) The credit (if any) determined under
11 this section with respect to each such employer
12 shall be its proportionate share of the wages
13 and qualified employee health insurance costs
14 giving rise to such credit.

15 “(3) CERTAIN OTHER RULES MADE APPLICA-
16 BLE.—Rules similar to the rules of section 51(k)
17 and subsections (e), (d), and (e) of section 52 shall
18 apply.

19 “(4) COORDINATION WITH NONREVENUE
20 LAWS.—Any reference in this section to a provision
21 not contained in this title shall be treated for pur-
22 poses of this section as a reference to such provision
23 as in effect on the date of the enactment of this
24 paragraph.”.

1 (c) DENIAL OF DEDUCTION FOR PORTION OF WAGES
2 EQUAL TO INDIAN EMPLOYMENT CREDIT.—

3 (1) Subsection (a) of section 280C of such Code
4 (relating to rule for targeted jobs credit) is amended
5 by striking “51(a)” and inserting “45(a), 51(a),
6 and”.

7 (2) Subsection (c) of section 196 of such Code
8 (relating to deduction for certain unused business
9 credits) is amended by striking “and” at the end of
10 paragraph (5), by striking the period at the end of
11 paragraph (6) and inserting “, and”, and by adding
12 at the end the following new paragraph:

13 “(7) the Indian employment credit determined
14 under section 45(a).”.

15 (d) DENIAL OF CARRYBACKS TO PREENACTMENT
16 YEARS.—Subsection (d) of section 39 of such Code is
17 amended by adding at the end thereof the following new
18 paragraph:

19 “(4) NO CARRYBACK OF SECTION 45 CREDIT
20 BEFORE ENACTMENT.—No portion of the unused
21 business credit for any taxable year which is attrib-
22 utable to the Indian employment credit determined
23 under section 45 may be carried to a taxable year
24 ending before the date of the enactment of section
25 45.”.

1 (e) CLERICAL AMENDMENT.—The table of sections
 2 for subpart D of part IV of subchapter A of chapter 1
 3 of such Code is amended by adding at the end thereof
 4 the following:

“Sec. 45. Indian employment credit.”.

5 (f) EFFECTIVE DATE.—The amendments made by
 6 this section shall apply to wages paid or incurred after
 7 December 31, 1993.

8 **Subtitle E—Study**

9 **SEC. 451. STUDY OF EFFECTIVENESS OF TAX ENTERPRISE** 10 **ZONE INCENTIVES.**

11 (a) IN GENERAL.—The Secretary of the Treasury, in
 12 consultation with the appropriate Secretary (as defined in
 13 section 1393(7) of the Internal Revenue Code of 1986,
 14 as added by this title), shall contract within 3 months of
 15 the date of the enactment of this Act, with the National
 16 Academy of Sciences (hereafter in this section referred to
 17 as the “Academy”) to conduct a study of the relative effec-
 18 tiveness of the incentives provided by this title in achieving
 19 the purposes of such title in tax enterprise zones.

20 (b) CONDUCT OF STUDY.—If the Academy contracts
 21 for the conduct of the study described in subsection (a),
 22 the Academy shall develop a study methodology and shall
 23 oversee and manage the conduct of such study.

24 (c) REPORTS.—The Academy shall submit to the
 25 Committee on Ways and Means of the House of Rep-

1 representatives and the Committee on Finance of the
2 Senate—

3 (1) not later than July 1, 1997, an interim re-
4 port setting forth the findings as a result of such
5 study, and

6 (2) not later than July 1, 2002, a final report
7 setting forth the findings as a result of such study.

8 **TITLE V—WORKFARE**

9 **SEC. 501. DEVELOPMENT OF A COMPREHENSIVE LEGISLA-** 10 **TIVE PROPOSAL REQUIRING ADULTS RECEIV-** 11 **ING AFDC TO ENTER THE WORKFORCE.**

12 (a) IN GENERAL.—The Secretary of Labor (herein-
13 after referred to as the “Secretary”), in consultation with
14 the Secretary of Health and Human Services shall develop
15 a comprehensive legislative proposal which would require
16 adults receiving aid to families with dependent children
17 under title IV of the Social Security Act (hereinafter re-
18 ferred to as “AFDC”) to enter the workforce within two
19 years of receiving such aid.

20 (b) SPECIFIC MATTERS TO BE INCLUDED.—The
21 proposal developed pursuant to subsection (a) shall include
22 plans—

23 (1) for education, training, and child care which
24 would permit adults receiving AFDC to gain the
25 skills necessary to become financially independent;

1 (2) to assist adults receiving AFDC in finding
2 employment in the private sector; and

3 (3) providing for placement in meaningful com-
4 munity service jobs for those adults receiving AFDC
5 who cannot find employment in the private sector.

6 (c) REPORT.—No later than one hundred days after
7 January 20, 1993, the Secretary shall submit the proposal
8 developed pursuant to subsection (a) to the Congress.

By Mr. MACK (for himself, Mr. BOND, Mr. BURNS, Mr. COATS, Mr. D'AMATO, Mr. GRAMM, Mr. GRAIG, Mr. GRASSLEY, Mr. HELMS, Mr. MURKOWSKI, Mr. NICKLES, Mr. SMITH, Mr. THURMOND, Mr. GORTON, Mr. BROWN, Mr. WALLOP, Mr. KEMPTHORNE, Mr. BENNETT, Mr. LOTT, Mr. DOLE, and Mr. COVERDELL):

S. 102. A bill to provide for a line-item veto; capital gains tax reduction; enterprise zones; raising the Social Security earnings limit; and workfare; to the Committee on Finance.

ECONOMIC RECOVERY ACT OF 1993

Mr. MACK. Mr. President, the new President, like those before him, will be judged in large part by how well he keeps his campaign commitments. That is an appropriate test.

In recent days, there has been some criticism of the new President for backing away from certain campaign promises.

Bill Clinton was elected on the basis of his convictions, commitments, and pledges to the American people, especially when it comes to the economy. Today, I and many other Senate Republicans stand ready to help President Clinton follow through on his core commitment to spur the economy and revitalize the American spirit of innovation and competition. There are a number of policies he advocated during the campaign that Republicans have supported for years.

During these next 100 days, we urge the President to move forward in these areas of substantial agreement to ensure that the following five Clinton proposals become law: enacting a line-item veto; cutting certain taxes on long-term capital gains; creating Federal enterprise zones; lifting the Social Security earnings test limit to allow more seniors to work; and implementing workfare to encourage self-sufficiency.

A number of Senate Republicans pledge to stand shoulder to shoulder with President Clinton to fight for these ideas.

We've taken these five Clinton initiatives from his book "Putting People First" and have used his details to introduce a legislative package that must be passed immediately to help get America moving.

The American people supported these Clinton initiatives and the group of Senate Republicans intends to see them passed.

First, enact the line-item veto. Bill Clinton ran on the promise of a line-item veto, saying "to eliminate pork-barrel projects and cut government waste, give the President the line-item veto." He should fight for it and stick to his promise by rejecting attempts to water down the issue in Congress.

Our legislative package includes the line-item veto bill introduced in the 102d Congress as S. 196 by Senators MCCAIN and COATS. It would give President Clinton the authority to rescind portions of spending bills and, in contrast to present law, require the Congress to act in order to override the rescission.

Second, cut capital gains taxes. The bill is taken from the President's statement that he would "Help small businesses and entrepreneurs by offering a 50-percent tax exclusion to those who take risk by making long-term investments in new businesses." He's

right. Few initiatives would stimulate growth and investment in the economy like a capital gains tax cut.

Our legislation includes a bill introduced by Senator BUMPERS in the previous Congress that allows investors in small business ventures to receive a 50-percent reduction in capital gains tax on investments held for 5 years.

Third, create Federal enterprise zones. Perhaps Jack Kemp's most brilliant idea, enterprise zones, would provide companies with incentives to locate in areas of high unemployment. President Clinton said that he wants to:

"Create urban enterprise zones in stagnant inner cities, but only for companies willing to take responsibility by hiring inner city residents. Business taxes and Federal regulations will be minimized to provide incentives to set up shop. In return, companies will have to make jobs for local residents a priority."

Our bill is based on legislative developed last year by then-Senator Lloyd Bentsen, Clinton's Treasury Secretary, which would create 50 enterprise zones. In these zones, employers would receive a 15-percent tax credit based on the wages it pays to its employees. Also, 50 percent of capital gains from investments would be exempt from tax if held in an enterprise zone for at least 5 years.

Fourth, lift the Social Security earnings test. Clinton said:

"Lift the Social Security earnings test limitation so that older Americans are able to help rebuild our economy and create a better future for all."

As senior Americans remain in the work force longer, a law enacted in the 1930's penalizes senior workers who also receive Social Security.

Our plan, which is based upon legislation introduced by Senator Bentsen last year, raises the limit on earnings for recipients from the current \$10,560 in 1993 to \$51,000 in 2001.

Fifth, implement workfare. Bill Clinton pledged that welfare reform would be a top priority. He said:

"Scrap the current welfare system to make welfare a second chance, not a way of life. Empower people on welfare with education, training, and child care they need for up to two years so they can break the cycle of dependency. After that, those who are able will be required to work, either in the private sector or through community service. Provide placement assistance to help everyone find a job, and give the people who can't find one a dignified and meaningful community service."

Our bill includes a directive to the new President's Departments of Labor and Health and Human Services to develop a legislative package which mirrors Clinton's words, and send it to Congress with 100 days.

Bill Clinton was elected on the economic promises he made. Our hand is extended to the new President to enact his five initiatives for the good of the Nation. We'll stand up and fight for them. We hope the President will do the same.

PENDING BEFORE THE SENATE RULES COMMITTEE

January 21, 1993

[From the Congressional Record page S523]

II

103D CONGRESS
1ST SESSION**S. 92**

To create a legislative line item veto by requiring separate enrollment of items in appropriations bills.

IN THE SENATE OF THE UNITED STATES

JANUARY 21 (legislative day, JANUARY 5), 1993

Mr. HOLLINGS (for himself, Mr. HEFLIN, Mr. BIDEN, and Mr. ROBB) introduced the following bill; which was read twice and referred to the Committee on Rules and Administration

A BILL

To create a legislative line item veto by requiring separate enrollment of items in appropriations bills.

1 *Be it enacted by the Senate and House of Representa-*
 2 *tives of the United States of America in Congress assembled,*
 3 That (a) the Impoundment Control Act of 1974 is amend-
 4 ed by adding at the end thereof the following new title:
 5 “TITLE XI—LEGISLATIVE LINE ITEM VETO
 6 SEPARATE ENROLLMENT AUTHORITY LEG-
 7 ISLATIVE LINE ITEM VETO

8 “SEC. 1101. (a)(1) Notwithstanding any other provi-
 9 sion of law, when any general or special appropriation bill
 10 or any bill or joint resolution making supplemental, defi-

1 ciency, or continuing appropriations passes both Houses
2 of the Congress in the same form, the Secretary of the
3 Senate (in the case of a bill or joint resolution originating
4 in the Senate) or the Clerk of the House of Representa-
5 tives (in the case of a bill or joint resolution originating
6 in the House of Representatives) shall cause the enrolling
7 clerk of such House to enroll each item of such bill or
8 joint resolution as a separate bill or joint resolution, as
9 the case may be.

10 “(2) A bill or joint resolution that is required to be
11 enrolled pursuant to paragraph (1)—

12 “(A) shall be enrolled without substantive revi-
13 sion;

14 “(B) shall conform in style and form to the ap-
15 plicable provisions of chapter 2 of title 1, United
16 States Code (as such provisions are in effect on the
17 date of the enactment of this title); and

18 “(C) shall bear the designation of the measure
19 of which it was an item prior to such enrollment, to-
20 gether with such other designation as may be nec-
21 essary to distinguish such bill or joint resolution
22 from other bills or joint resolutions enrolled pursu-
23 ant to paragraph (1) with respect to the same meas-
24 ure.

3

1 “(b) A bill or joint resolution enrolled pursuant to
2 subsection (a)(1) with respect to an item shall be deemed
3 to be a bill under clauses 2 and 3 of section 7 of article
4 1 of the Constitution of the United States and shall be
5 signed by the presiding officers of both Houses of the Con-
6 gress and presented to the President for approval or dis-
7 approval (and otherwise treated for all purposes) in the
8 manner provided for bills and joint resolutions generally.

9 “(c) For purposes of this concurrent resolution, the
10 term ‘item’ means any numbered section and any unnum-
11 bered paragraph of—

12 “(1) any general or special appropriation bill;
13 and

14 “(2) any bill or joint resolution making supple-
15 mental, deficiency, or continuing appropriations.”.

16 (b) The amendment made by subsection (a) shall
17 apply to bills and joint resolutions agreed to by the Con-
18 gress during the two-calendar-year period beginning with
19 the date of the enactment of this Act.

March 5, 1993

[From the Congressional Record pages S2501-2502]

By Mr. HOLLINGS (for himself, Mr. HEFLIN, Mr. BIDEN, and Mr. ROBB):

S. 92. A bill to create a legislative line-item veto by requiring separate enrollment of items in appropriations bills; to the Committee on Rules and Administration.

LEGISLATIVE LINE-ITEM VETO SEPARATE ENROLLMENT AUTHORITY

Mr. HOLLINGS. Mr. President, I rise today to introduce legislation which enables the President to control wasteful and unnecessary appropriations and thereby reduce the Federal deficit. This bill, a statutory, separate enrollment line-item veto, is identical to a measure previously considered by the 99th Congress as well as legislation reported favorably by a bipartisan vote out of the Senate Budget Committee on July 25, 1990.

Currently, 43 States have, in one form or another, a line-item veto allowing the chief executive to limit legislative spending. As a former Governor who inherited a budget deficit in a poor State, I can testify that a line-item veto is invaluable in imposing fiscal restraint.

The fiscal problems of our Nation have been painfully documented. Our Government currently faces annual deficits well over \$400 billion and a total debt eclipsing \$4 trillion. For years now, we have been toying with freezes, asset sales and sham summits, but the deficit and debt continue to grow.

The American taxpayer, as well as the Congress, have grown weary of the smoke and mirrors and are past ready for a serious deficit reduction package. If ever there was a problem that needed to be attacked from every possible angle, it is this deficit. Over the past few months President Clinton has repeatedly stressed his resolve to attack the burgeoning deficit monster. In order to hold him to that commitment, we should send him into battle well armed. By restoring accountability and responsibility throughout the appropriations process, the line-item veto would force Members of Congress and the President to stop fixing the blame and to start fixing the problem.

This legislation provides that each item shall be enrolled as a separate bill and sent to the President for his approval. Therefore, each item of an appropriations bill would be subject to veto or approval, just like any other bill, and the override provisions found in article I of the Constitution would apply in the case of a veto. Item is defined as any numbered section and any unnumbered paragraph of an appropriations bill. The enrolling clerk would merely break the appropriations bill down into its component parts and send each separately enrolled provision to the President.

Finally, this legislation also contains a 2-year sunset provision allowing for a reasonable testing period and requiring an evaluation of the line-item veto's success. I have no question but that it will be demonstrated to be a modest, but effective, method of restraining fiscal profligacy. I hope that Senators will join me in this effort, and I ask that the full text of the bill be printed in the RECORD at this time.

103D CONGRESS
1ST SESSION

S. 526

To create a legislative item veto by requiring separate enrollment of items in appropriations bills and tax expenditure provisions in revenue bills.

IN THE SENATE OF THE UNITED STATES

MARCH 5 (legislative day, MARCH 3), 1993

Mr. BRADLEY (for himself and Mr. ROBB) introduced the following bill; which was read twice and referred to the Committee on Rules and Administration

A BILL

To create a legislative item veto by requiring separate enrollment of items in appropriations bills and tax expenditure provisions in revenue bills.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. TAX EXPENDITURE AND LEGISLATIVE APPRO-**
4 **RIATIONS LINE ITEM VETO ACT OF 1993.**

5 The Congressional Budget and Impoundment Control
6 Act of 1974 is amended by adding at the end thereof the
7 following new title:

1 TITLE XI—TAX EXPENDITURE AND LEGISLA-
2 TIVE APPROPRIATIONS LINE ITEM VETO
3 ACT OF 1993.

4 "LEGISLATIVE APPROPRIATIONS AND TAX EXPENDITURE
5 LINE ITEM VETO SEPARATE ENROLLMENT AUTHORITY

6 "SEC. 1101. (a) SEPARATE ENROLLMENT.—

7 "(1) Notwithstanding any other provision of
8 law, when—

9 "(A) any general or special appropriation
10 bill or any bill or joint resolution making sup-
11 plemental, deficiency, or continuing appropria-
12 tions; or

13 "(B) any revenue bill containing a tax ex-
14 penditure provision,

15 passes both Houses of the Congress in the same
16 form, the Secretary of the Senate (in the case of a
17 bill or joint resolution originating in the Senate) or
18 the Clerk of the House of Representatives (in the
19 case of a bill or joint resolution originating in the
20 House of Representatives) shall cause the enrolling
21 clerk of such House to enroll each item of appropria-
22 tion or tax expenditure provision of such bill or joint
23 resolution as a separate bill or joint resolution, as
24 the case may be.

3

1 “(2) A bill or joint resolution that is required
2 to be enrolled pursuant to paragraph (1)—

3 “(A) shall be enrolled without substantive
4 revision;

5 “(B) shall conform in style and form to
6 the applicable provisions of chapter 2 of title 1,
7 United States Code (as such provisions are in
8 effect on the date of the enactment of this
9 title); and

10 “(C) shall bear the designation of the
11 measure of which it was an item of appropria-
12 tion or tax expenditure provision prior to such
13 enrollment, together with such other designa-
14 tion as may be necessary to distinguish such
15 bill or joint resolution from other bills or joint
16 resolutions enrolled pursuant to paragraph (1)
17 with respect to the same measure.

18 “(b) PREPARATION AND PRESENTMENT.—A bill or
19 joint resolution enrolled pursuant to subsection (a)(1) with
20 respect to an item of appropriation or tax expenditure pro-
21 vision shall be deemed to be a bill under clauses 2 and
22 3 of section 7 of article 1 of the Constitution of the United
23 States and shall be signed by the presiding officers of both
24 Houses of the Congress and presented to the President
25 for approval or disapproval (and otherwise treated for all

1 purposes) in the manner provided for bills and joint reso-
2 lutions generally.

3 “(c) DEFINITIONS.—For purposes of this title—

4 “(1) the term ‘item of appropriation’ means any
5 numbered section and any unnumbered paragraph
6 of—

7 “(A) any general or special appropriation
8 bill; and

9 “(B) any bill or joint resolution making
10 supplemental, deficiency, or continuing appro-
11 priations; and

12 “(2) the term ‘tax expenditure provision’ means
13 a division of a bill that amends current law or is free
14 standing and that is scored by the Joint Committee
15 on Taxation as losing revenue over the 5-year period
16 after the provision takes effect.”.

17 **SEC. 2. EFFECTIVE PERIOD.**

18 The amendment made by section 1 shall apply to bills
19 and joint resolutions agreed to by the Congress during the
20 103d Congress.

By Mr. BRADLEY (for himself and Mr. ROBB):

S. 526. A bill to create a legislative item veto by requiring separate enrollment of items in appropriations bills and tax expenditure provisions in revenue bills; to the Committee on Rules and Administration.

ITEM-VETO LEGISLATION

Mr. BRADLEY. Mr. President, our new President has promised to set our Nation on a new path to lasting prosperity and security. President Clinton has laid out a plan for substantial deficit reduction, along with selective investment in education, job training, and infrastructure to improve our economic prospects. He must have the tools he needs to keep his promises. To lead, President Clinton should need nothing more than the will to change.

To make sure that nothing stands in the way of the President's promises, today I am introducing the Tax Expenditure and Legislative Appropriations Act of 1993. This legislation will give the President the authority to veto line items in appropriations and tax bills. I am very pleased that Senator ROBB joins me as an original cosponsor.

To change our Nation, I have changed my mind. Many times since I first ran for the Senate, I have studied the proposals for a line-item veto, thought through the arguments and each time I came to the conclusion that it would tilt the balance of power farther toward the President than the delicate balance embodied in our Constitution. But I have also watched for 12 years as the deficit quintupled, shameless pork-barrel projects persisted in appropriations and tax bills, and our Presidents again and again denied responsibility for the decisions that led to these devastating trends. Things have to change.

Although it remains true that the line-item veto would give the President more power than our Founders probably envisioned, there is also truth in the conclusion of the National Economic Commission in 1989 that "the balance of power on budget issues has swung too far from the Executive toward the Legislative branch." There is no tool to precisely calibrate this balance of power, but if we have to swing a little too far in one direction or another, at this critical moment, we should lean toward giving the President all the power he says he needs. We have a right to expect wise leadership from the President. We have a right to expect that the President will use this power for the good of all.

Let me also be clear that I agree with the more recent economic commission chaired by my colleagues Senators NUNN and DOMENICI that a line-item veto is not in itself deficit reduction. But if the President is willing to use it, it is the appropriate tool to cut a certain kind of wasteful spending—the pork-barrel projects that tend to appear in appropriations and tax bills. Presidential leadership can eliminate these projects when Congress, for institutional reasons, usually cannot. Individual Senators and Representatives, who must represent their own local interests, find it difficult to challenge their colleagues on behalf of the general interest. Pork-barrel spending on appropriations and taxes is only one of the types of spending that drive up the deficit, not the only type, and not the largest. But until we control these expenditures for the few, we

cannot ask for shared sacrifice from the many who benefit from entitlements, or the many who pay taxes.

I expect to be asked why I am introducing my own bill, rather than signing on as a cosponsor to 1 of the 26 existing bills, resolutions, or constitutional amendments to give the President line-item veto or enhanced rescission authority on appropriations. The answer stems from my experience, as a member of the Finance Committee, with tax legislation. These bills provide special exceptions from taxes for special interest that total about \$375 billion a year, more than the entire Federal deficit.

We need to be honest about the fact that as many instances of outrageous, unnecessary, special-interest pork-barrel as are buried in appropriations bills can be found in tax bills, although often camouflaged in coded jargon that makes it impossible to figure out who benefits. For every \$250,000 for a water tower in Joplin, MO, earmarked in an appropriations bill, there is a \$32 million special depreciation schedule for rental tuxedos, buried in a tax bill. For every \$900,000 appropriated for a revolving business loan fund in Elkhart, IN, there is a \$6 million special exemption from fuel excise taxes for crop-dusters. And some tax expenditures even cancel out spending for the common good: We spend millions of dollars to clean up lead, asbestos, and uranium, three of the most potent poisons on our planet, but in the Tax Code, there's a \$12 million subsidy to produce these minerals.

In singling out these pork-barrel projects, I do not mean to pass judgment on their merits. Every small businessperson could benefit from a revolving loan fund. Aviators benefit from the lowest excise tax on fuel. But these provisions instead single out narrow subclasses to benefit—businesses that happen to be located in Elkhart, IN, or people who own crop-dusters. Everyone else pays. A line-item veto would allow the President to weigh these narrow expenditures against our shared goal of cutting spending and lower taxes for all. And if Congress concludes that these expenditures still have merit, Congress will have the power to override the veto.

If the President had the power to excise special interest spending, but only in appropriations, we would simply find the special interest lobbyists who work appropriations turning themselves into tax lobbyists, pushing for the same spending in the Tax Code. Spending is spending whether it comes in the form of a Government check, or in the form of a special exception from the tax rates that apply to everyone else. Tax spending does not, as some pretend, simply allow people to keep more of what they have earned. It gives them a special exception from the rules that oblige everyone to share in the responsibility of our national defense and protecting the young, the aged, and the infirm. The only way to let everyone keep more of what they have earned is to minimize these tax expenditures along with appropriated spending and the burden of the national debt so that we can bring down tax rates fairly, for everyone.

For the next President to keep his promise to cut the deficit, he will need the power to block unnecessary spending for narrow local interests. For the next President to hold the line on taxes, or even better, provide some meaningful tax relief for the vast majority of families who need help, he will need the power to block spending

through the Tax Code for narrow interests. And if the next President is to keep his promise to make new investments in education, job training, and infrastructure, he will need the power to distinguish between wasteful, narrow spending generated by congressional special interests and productive investment that will benefit the general interest.

The bill I will introduce will be modeled on a bill my colleague Senator HOLLINGS has introduced in several Congresses. I want to thank and commend Senator HOLLINGS for working so hard to develop a workable line-item veto strategy, one that goes beyond political demagoguery to the real question of how to limit spending. My bill will require that each line item in any appropriations bill and any bill affecting revenues to be enrolled as a separate bill after it is passed by Congress, so that the President can sign the full bill or single out individual items to sign and veto. It differs from other bills in that it avoids obvious constitutional obstacles and in that it applies to spending through the Tax Code as well as appropriated spending.

The bill would remain in effect for just 2 years. That period should constitute a real test of the idea. First, it will provide enough time for the Federal courts to address any questions about whether this approach is constitutionally sound, or if a constitutional amendment is necessary. Only courts can answer this question, which is in dispute among legal scholars. Second, we should have a formal process to determine whether the line-item veto works as intended: Did it contribute to significant deficit reduction? Did the President use it judiciously to cut special-interest spending, or, as some worry, did he use it to blackmail Members of Congress into supporting his own special interest expenditures? Did it alter the balance of power over spending, either restoring the balance or shifting it too far in the other direction?

The American people have no more patience for finger-pointing or excuses. We can no longer tolerate a deficit that saps our economic strength which politicians in Washington insist that it's someone else who really has the power to spend or cut spending. The President must have no excuses for failing to lead.

Mr. President, I ask unanimous consent that the text of the bill and a summary be printed in the RECORD.

BILL SUMMARY

The Tax Expenditure and Legislative Appropriations Act of 1993 introduced by Senators Bradley and Robb would give the President the authority to veto line items in appropriations bill *and* to veto tax expenditures in revenue bills. Expanding upon a bill introduced by Senator Hollings, it would be a statutory, separate enrollment line-item veto with a 2-year sunset provision.

The bill would require that each item in an appropriations bill be enrolled as a separate bill for presentment to the President. This would be achieved by having the enrolling clerk break the bill down into its component parts and send each provision to the President. In addition, the bill would require that each item in a revenue bill that was scored as a net revenue decrease, e.g. each tax expenditure be enrolled as a separate bill. As a result, all ap-

appropriations items and tax expenditures would be subject to the Presidential veto and the override provisions of the Constitution would apply. This would effectively give the President the authority to block individual appropriations items or tax expenditures, subject to the 2/3 override of both houses of Congress.

The bill would sunset in two years. As a result, it would constitute a legitimate test of the workability of the line-item at the federal level. It would also allow the federal courts enough time to address any questions as to the constitutionality of the approach.

PENDING BEFORE THE SENATE JUDICIARY COMMITTEE

January 21, 1993

II

103D CONGRESS
1ST SESSION**S. J. RES. 4**

Proposing a constitutional amendment to authorize the President to exercise
a line-item veto over individual items of appropriation.

IN THE SENATE OF THE UNITED STATES

JANUARY 21 (legislative day, JANUARY 5), 1993

Mr. SPECTER introduced the following joint resolution; which was read twice
and referred to the Committee on the Judiciary

JOINT RESOLUTION

Proposing a constitutional amendment to authorize the President to exercise a line-item veto over individual items of appropriation.

1 *Resolved by the Senate and House of Representatives*
2 *of the United States of America in Congress assembled*
3 *(two-thirds of each House concurring therein),* That the
4 following article is proposed as an amendment to the Con-
5 stitution of the United States, which shall be valid to all
6 intents and purposes as part of the Constitution if ratified
7 by the legislatures of three-fourths of the several States
8 within seven years after its submission for ratification:

1 "ARTICLE —

2 "SECTION 1. The President may reduce or disapprove
3 any item of appropriation in an Act or joint resolution.
4 If an Act or joint resolution is approved by the President.
5 any item of appropriation contained therein which is not
6 reduced or disapproved shall become law.

7 "SECTION 2. The President shall return with his ob-
8 jections any item of appropriation reduced or disapproved
9 to the House in which the Act or joint resolution contain-
10 ing such item originated.

11 "SECTION 3. The Congress may, in the manner pre-
12 scribed under section 7 of Article I for acts disapproved
13 by the President, reconsider any item reduced or dis-
14 approved under this article, except that only a majority
15 of each House shall be required to approve an item which
16 has been disapproved or to restore an item which has been
17 reduced by the President to the original amount contained
18 in the Act or joint resolution."

By Mr. SPECTER:

S.J. Res. 4. A joint resolution proposing a constitutional amendment to authorize the President to exercise a line-item veto over individual items of appropriation; to the Committee on the Judiciary.

LINE-ITEM VETO CONSTITUTIONAL AMENDMENT

Mr. SPECTER. Mr. President, once again I introduce a proposed constitutional amendment to authorize the President to veto or reduce individual items of appropriation in bills and resolutions. The line-item veto or reduction authority is a necessary step in helping to bring the chronic budget deficit under control, and I have long supported it. This proposed authority of the President to veto or reduce specific items of appropriation in large spending bills provides a realistic opportunity to rein in the deficit from which we suffer.

I believe the President now has the constitutional authority to exercise the line-item veto, and I co-signed a letter authored by Senator DOLE urging President Bush to exercise the line-item veto, but President Bush declined on the advice of his counsel. This amendment would remove all doubt.

The budget process has run amok in recent years. Most recently, the outgoing administration provided information to indicate that the deficit will continue to balloon over the next 4 years, contradicting previous information regarding the growth of the deficit. And some commentators suggested that this recent report understates the scope of the problem. A line-item veto would provide a valuable institutional check on unfettered spending and trade-off pork-barrel projects that serve not the national interest but rather private interests and must therefore be buried in lengthy appropriations bills, out of sight of all but the concerned interest groups.

Currently, the President cannot realistically control this form of congressional excess. The choice is a stark one: either the President vetoes an entire appropriations bill, putting at risk all programs funded in the bill or he swallows the relatively small percentage of pork spending in any bill to fund the large number of vital programs. The line-item veto gives the President a useful tool with which to counter this type of wasteful spending. Standing alone, the line-item veto will not solve our deficit problem, but it will help by allowing the President to stop or reduce funding should he deem the programs too expensive or unnecessary.

I believe that it is preferable to grant to the President not only the authority to veto completely individual items of appropriation, but also to grant him enhanced rescission authority. Studies in States whose governors exercise line-item veto authority suggest that while a straight line-item veto, an up or down on a specific item of appropriation, have little effect on spending and budget deficits, enhanced rescission authority does have a significant effect on spending. Therefore, my proposal contains both a veto provision and a provision to allow the President to reduce individual items of appropriation.

Many claim that the line-item veto would result in an intolerable shift of power from the Congress to the Executive and undermine the carefully crafted balance of power established by the Founding Fathers. No one is more sensitive than I am to the respective roles

of the legislature and the executive and the need to retain a balance of authority between the two branches. While it is a peculiarly legislative function to decide how much money to spend on Government programs and to allocate these funds, there is no reason for a line item veto to be considered any more of an infringement on the separation of powers than the President's ability to veto bills at all. This veto power serves a crucial function in our system. As Alexander Hamilton recognized in Federalist 73, the veto provides—

“An additional security against the enactment of improper laws * * * to guard the community against the effects of faction precipitancy, or of any impulse unfriendly to the public good, which may happen to influence a majority of (the legislative) body.”

The purpose for enacting a line-item veto fits squarely within this reasoning.

Of course, under the Constitution, Congress controls the power of the purse. The ultimate authority of the Congress to decide how to allocate and spend the Federal Government's money is protected by my proposal. Under my proposed constitutional amendment, Congress could override the President's veto or reduction of any specific item of appropriation by a simple majority vote. This override by simple majority, rather than by the two-thirds majority needed to override a veto of an entire bill, provides adequate protection for congressional spending authority. Any item of appropriation that cannot command the support of either the President or a simple majority of the Congress is simply bad policy and should not be approved at all. By allowing a simple majority vote to override, the proposal allows Congress to exercise its authority consistent with the general constitutional requirement that a simple majority is sufficient to enact legislation. Thus, the line-item veto is not terribly onerous to congressional prerogatives. It merely requires a Congress to take a second look at particular items of spending. In this regard, it forces the entire institution to look over spending. Thus, the line-item veto as I propose it will merely reduce the power of congressional committees and special-interest group lobbyists; it will have no significant effect on the authority of the Congress as an institution.

Mr. President, the issue of the line-item veto has been pending for several years. In the 101st Congress, the Judiciary Committee favorably reported two different versions of the line-item veto amendment, although the full Senate never considered either proposal. In the 102d Congress, no proposal was reported, but proposed statutory enhanced rescission authority was considered and rejected twice by the Senate. I hope that this year, when the political pressure of divided government has been removed, is the year in which we finally enact this worthwhile idea.

As I have said, I do not believe that, on its own, a line-item veto will cure the deficit. Together with budget reforms, and greater Executive and congressional discipline, the line-item veto offers hope. Indeed, it is this hope that induces me to introduce this proposal again. While President Reagan and President Bush both supported a line-item veto, there was little realistic chance of its adoption with a Congress controlled by Democrats. With the accession of President Clinton, who has enjoyed constitutional authority to em-

ploy a line-item veto as Governor of Arkansas and strongly supports the line-item veto in principle, I expect and hope that a Federal line-item veto can finally become part of our fundamental law and can be used as a weapon against out-of-control budget deficits.

We must do something to curb these deficits. The American people have made it clear that they will not accept government as usual. We must put the public interest first and the private interests of the groups that come begging for federal dollars must no longer enter into our consideration. The best way to thwart the power of private interests is to shed light on them, and the line-item veto will enable the President and Congress to do just that.

I ask unanimous consent that the joint resolution be printed in the RECORD.

103D CONGRESS
1ST SESSION

S. J. RES. 15

Proposing an amendment to the Constitution of the United States to allow the President to veto items of appropriation.

IN THE SENATE OF THE UNITED STATES

JANUARY 21 (legislative day, JANUARY 5), 1993

Mr. THURMOND (for himself and Mr. SIMPSON) introduced the following joint resolution; which was read twice and referred to the Committee on the Judiciary

JOINT RESOLUTION

Proposing an amendment to the Constitution of the United States to allow the President to veto items of appropriation.

1 *Resolved by the Senate and House of Representatives*
2 *of the United States of America in Congress assembled,*
3 *(two-thirds of each House concurring therein),* That the fol-
4 lowing article is proposed as an amendment to the Con-
5 stitution, which shall be valid to all intents and purposes
6 as part of the Constitution when ratified by the legisla-
7 tures of three-fourths of the several States within seven
8 years after the date of its submission to the States for
9 ratification:

2

1 "ARTICLE —

2 "The President may disapprove any item of appro-
3 priation in any Act or joint resolution. If an Act or joint
4 resolution is approved by the President, any item of appro-
5 priation contained therein which is not disapproved shall
6 become law. The President shall return with his objections
7 any item of appropriation disapproved to the House in
8 which the Act or joint resolution containing such item
9 originated. The Congress may, in the manner prescribed
10 under section 7 of article I for Acts disapproved by the
11 President, reconsider any item of appropriation dis-
12 approved under this article."

[From the Congressional Record page S2778]

March 11, 1993

By Mr. THURMOND (for himself and Mr. Simpson):

S.J. Res. 15. Joint resolution proposing an amendment to the Constitution of the United States to allow the President to veto items of appropriation; to the Committee on the Judiciary.

**PROPOSED CONSTITUTIONAL AMENDMENT RELATIVE TO LINE-ITEM
VETO**

Mr. THURMOND. Mr. President, I rise today to introduce a proposed constitutional amendment which would give authority to the President to disapprove specific items of appropriation on any act of joint resolution submitted to him. The authority is commonly referred to as line-item veto.

Too often during debate on the budget, the discussion focuses on ways to enhance revenues. The Congress must address runaway spending if we are truly going to establish a sound fiscal policy of this Nation.

The Federal debt exceeds \$4 trillion and payment of interest on the debt is the second largest item in the budget. The budget deficit for fiscal year 1992 was over \$290 billion. The Office of Management and Budget projects the deficit for fiscal year 1993 to possibly reach \$341 billion. We must take strong, disciplinary action to ensure fiscal responsibility.

The Congress regularly enacts appropriations measures, totaling billions and billions of dollars. Too often there are items tucked away in these bills that represent millions of dollars and they would have very little chance of passing on their own merit. Yet, the President has no discretion to weed out these unnecessary expenditures and must approve or disapprove the bill in its entirety.

Presidential authority for line-item veto is a badly needed fiscal tool which would provide a valuable means to reduce and restrain excessive appropriations.

Forty-three Governors currently have, in one form or another, the power to reduce or eliminate items or provisions in appropriation measures. Surely, the President should have the same discretionary authority that 43 Governors now have to check unbridled spending.

It is my hope that this Congress will swiftly approve line-item veto and send a clear message to the American people that we are making a serious effort to set our Nation's fiscal house in order.

I urge my colleagues to support this proposal and our efforts to make it part of our Constitution.

Mr. President, I ask unanimous consent that this proposal be printed in the RECORD following my remarks.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

103D CONGRESS
1ST SESSION

S. J. RES. 63

Proposing an amendment to the Constitution authorizing the President to disapprove or reduce an item of appropriations.

IN THE SENATE OF THE UNITED STATES

MARCH 11, (legislative day, MARCH 3), 1993

Mr. SIMON introduced the following joint resolution; which was read twice and referred to the Committee on the Judiciary

JOINT RESOLUTION

Proposing an amendment to the Constitution authorizing the President to disapprove or reduce an item of appropriations.

1 *Resolved by the Senate and House of Representatives*
2 *of the United States of America in Congress assembled*
3 *(two-thirds of each House concurring therein), That the fol-*
4 *lowing article is proposed as an amendment to the Con-*
5 *stitution of the United States, which shall be valid to all*
6 *intents and purposes as part of the Constitution if ratified*
7 *by the legislatures of three-fourths of the several States*
8 *within seven years after its submission to the States for*
9 *ratification:*

1 "ARTICLE —

2 "The President may reduce or disapprove any item
3 of appropriation in any Act or joint resolution, except any
4 item of appropriation for the legislative branch of the Gov-
5 ernment. If an Act or joint resolution is approved by the
6 President, any item of appropriation contained therein
7 which is not reduced or disapproved shall become law. The
8 President shall return with his objections any item of ap-
9 propriation reduced or disapproved to the House in which
10 the Act or joint resolution containing such item originated.
11 The Congress may, in the manner prescribed under sec-
12 tion 7 of the article I for Acts disapproved by the Presi-
13 dent, reconsider any item disapproved or reduced under
14 this article, except that only a majority vote of each House
15 shall be required to approve an item which has been dis-
16 approved or to restore an item which has been reduced
17 by the President to the original amount contained in the
18 Act or joint resolution."

By Mr. SIMON:

S.J. Res. 63. A joint resolution proposing an amendment to the Constitution authorizing the President to disapprove or reduce an item of appropriations; to the Committee on the Judiciary.

March 24, 1993

[From the Congressional Record pages S3751-3754]

III

103D CONGRESS
2D SESSION**S. RES. 195**

Expressing the sense of the Senate that the President currently has authority under the Constitution to veto individual items of appropriation and that the President should exercise that authority without awaiting the enactment of additional authorization.

IN THE SENATE OF THE UNITED STATES

MARCH 24 (legislative day, FEBRUARY 22), 1994

Mr. SPECTER submitted the following resolution; which was referred to the Committee on the Judiciary

RESOLUTION

Expressing the sense of the Senate that the President currently has authority under the Constitution to veto individual items of appropriation and that the President should exercise that authority without awaiting the enactment of additional authorization.

Whereas article I, section 7, clause 2 of the Constitution authorizes the President to veto bills passed by both Houses of Congress;

Whereas article I, section 7, clause 3 of the Constitution authorizes the President to veto every "Order, Resolution, or Vote" passed by both Houses of Congress;

Whereas during the Constitutional Convention, Roger Sherman of Connecticut opined that article I, section 7,

clause 3 was "unnecessary, except as to votes taking money out of the Treasury";

Whereas the language of article I, section 7, clause 3 was taken directly from the Constitution of the Commonwealth of Massachusetts of 1780;

Whereas the provision of the Massachusetts Constitution of 1780 that was included as article I, section 7, clause 3 of the United States Constitution vested in the Governor of Massachusetts the authority to veto individual items of appropriation contained in omnibus appropriations bills passed by the Massachusetts Legislature;

Whereas the Governor of Massachusetts had enjoyed the authority to veto individual items of appropriation passed by the legislature since 1733;

Whereas in explaining the purpose of the constitutional veto power, Alexander Hamilton wrote in *The Federalist* No. 69 that it "tallies exactly with the revisionary authority of the council of revision" in the State of New York, which had the authority to revise or strike out individual items of appropriation contained in spending bills;

Whereas shortly after the new Federal Constitution was adopted, the States of Georgia, Pennsylvania, Vermont, and Kentucky adopted new Constitutions which included the language of article I, section 7 of the Federal Constitution, and allowed their Governors to veto individual items of appropriation on the basis of these provisions;

Whereas the contemporary practice in the States is probative as to the understanding of the framers of the Constitution as to the meaning of article I, section 7, clause 3;

Whereas President Washington, on a matter of presidential authority, exercised the prerogative to shift appropriated

funds from one account to another, effectuating a line-item veto;

Whereas President Jefferson considered appropriations bills to be permissive and refused on at least two occasions to spend funds appropriated by the Congress: Now, therefore, be it

1 *Resolved*, That it is the sense of the Senate that—

2 (1) the Constitution grants to the President the
3 authority to veto individual items of appropriation;
4 and

5 (2) the President should exercise that constitu-
6 tional authority to veto individual items of appro-
7 priation without awaiting the enactment of addi-
8 tional authorization.

SENATE RESOLUTION 195—RELATING TO LINE-ITEM VETO

Mr. SPECTER submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 195

Mr. SPECTER. Mr. President, I have long supported a line-item veto for the President, I have proposed constitutional amendments to grant the President such authority, and I have supported statutory enhanced rescission authority.

As these measures have failed, after extensive legal research and analysis, I now urge the President to exercise the line-item veto without further legislative action. I do so because I believe, after a careful review of the historical record, that the President already has the authority under the Constitution to veto individual items of appropriation in an appropriations bill and that neither an amendment to the Constitution nor legislation granting enhanced rescission authority is necessary.

The line-item veto would be effective in helping to reduce the huge deficit that now burdens our country. While alone it is no panacea, its use would enable the President to veto specific items of appropriation in large spending bills, thereby restraining some of the pork-barrel or purely local projects that creep into every appropriations bill. With the broad national interest rather than purely local concerns at work, the President's use of the line-item veto would cut significant amounts of this type of spending.

The line-item veto would also have a salutary effect on Members of Congress. Knowing that their attempts to insert items into appropriations bills will be subjected to presidential scrutiny, Members are likely to become more reluctant to seek special favors for the home district at the expense of the Nation at large. While such discretionary programs are earmarks do not account for a large part of Federal spending, getting control over them will improve the authorization and appropriations process. The President could use the veto to eliminate funding for unauthorized programs. Such a message would motivate Congress to reauthorize programs with regularity, improving our oversight and the effectiveness of the government.

The line-item veto is not a partisan issue. It is a good government issue. Many Democrats support the line-item veto; some Republicans oppose it. As a candidate in 1992, Bill Clinton firmly embraced the line-item veto. As President, he has the opportunity to make effective use of it to help control in some small measure the deficits we accumulate. By exercising this option, the President can provide a check on unfettered spending and carve away many of the pork-barrel projects contained in both versions of the budget that serve primarily private, not national interests.

Beyond the specific savings, the presence and use of the line item veto by the President could give the public assurances that tax dollars were not being wasted. Each year the media reports many instances of congressional expenditures which border, if in fact they do not pass, the frivolous. Those expenditures are made because of the impracticality of having the President veto an entire appropriations bill or sometimes a continuing resolution. That creates a gen-

eral impression that public funds are routinely wasted by the Congress.

The line-item veto could eliminate such waste and help to dispel that notion. The resentment to taxes is obviously much less than when the public does not feel the monies are being wasted. Notwithstanding the so called taxpayers' revolts in some States, there is still a willingness by the citizenry to approve taxes for specific items where the taxpayers believe the funds are being spent for a useful purpose. The line-item veto could be a significant factor in improving such public confidence in governmental spending even beyond the specific savings.

I now turn to the basis for my position that the President already has authority under the Constitution to exercise the line-item veto, without a need for additional constitutional or statutory legislation.

The constitutional basis for the President's exercise of a line-item veto is found in article I, section 7, clause 3 of the Constitution. Clause 2 of article I, section 7 provides the executive the authority to veto bills in their entirety. The question of conferring on the President the power to veto specific items within a bill appears not to have been discussed at the Constitutional Convention. During the drafting of the Constitution, however, James Madison expressed his concern that Congress might try to get around the President's veto power by labeling bills by some other term. In response to Madison's concern, Edmund Randolph proposed and the Convention adopted the third clause of article I, section 7, whose language was taken directly from a provision of the Massachusetts Constitution of 1780.

Clause 3 of article I, section 7 provides that in addition to bills—the veto of which is set forth in clause 2:

"Every Order, Resolution, or Vote to which the Concurrence of the Senate and House of Representatives may be necessary (except on a question of adjournment) shall be presented to the President of the United States; and before the same shall take Effect, shall be approved by him, or being disapproved by him, shall be repassed by two thirds of the Senate and House of Representatives, according to the Rules and Limitations prescribed in the case of a Bill."

While the clause does not explicitly set out the executive authority to veto individual items of appropriation, the context and practice are evidence that that was its purpose. According to noted historian Professor Forrest McDonald of the University of Alabama, the clause was taken directly from a provision of the Massachusetts Constitution of 1780. In his article entitled "The Framers' Conception of the Veto Power," published in the monograph *Pork Barrels and Principles: The Politics of the Presidential Veto 1-7-1988*, Professor McDonald explains that this provision dates back to the state's fundamental charter of 1733 and was implemented specifically to give the royal Governor a check on the unbridled spending of the colonial legislature, which had put the colony in serious debt by avoiding the Governor's veto power by appropriating money through votes rather than through legislation.

Professor McDonald also points out that at the time of the Constitution's ratification process, anti-Federalist pamphleteers opposed the proposed Constitution and in particular clause 3 of arti-

cle I, section 7, precisely because it "made too strong a line-item veto in the hands of the President."

Federalists, on other hand, saw clause 3 and the power to veto individual items of appropriation as an important executive privilege—one that was essential in assuring fiscal responsibility while also comporting with the delicate balance of power they were seeking to achieve. For example, during his State's ratifying convention, James Bowdoin, the Federalist Governor of Massachusetts, argued that the veto power conferred to the President in the Federal Constitution was to be read in light of the Massachusetts experience under which, I have already noted, the Governor had enjoyed the right to veto or reduce by line-item since 1733.

In *The Federalist* No. 69, Alexander Hamilton, a member of the Constitutional Convention who was soon to become the first Secretary of the Treasury, wrote that the constitutional veto power "tallies exactly with the revisionary authority of the council of revision" in New York, which, according to Professor McDonald, had the power to revise appropriations bills, not merely accept or reject legislative enactments in their entirety. This power was not unique to New York, as the Governors of Massachusetts, Georgia, and Vermont (soon to be the first new State admitted to the new union) also enjoyed revisionary authority over legislative appropriations.

As many of my colleagues know, our distinguished colleague from West Virginia, the chairman of the Appropriations Committee, had made a series of speeches on the Senate floor drawing on his vast knowledge about the historical underpinnings of our republican form of government and on the framers' rationale for the checks and balances they created. His review of Roman history is apt, because, as he knows, the framers were acutely aware of Roman history. This awareness helped them develop their government of limited powers and of checks and balances. The framers knew that the vice of faction, the desire to push one's private interest at the expense the public interest, had helped bring on the downfall of the Roman Republic. Madison and others were convinced that the diffusing power and balancing it off in different branches of government, we might avoid to the fullest extent possible, the defects of faction.

In another sense, however, the distinguished Chairman of the Appropriations Committee, overlooks the fundamental differences between Rome's ancient government and ours. In ours, the people have a direct say. In Rome's the male citizens had a limited, indirect say, by mostly the ruling class was hereditary or was based on wealth. We have a democracy; Rome did not.

This fundamental difference between our Nation and ancient Rome means that there are more factions with which our Government must content. With so many different factions, or "interest groups, as we call them today, it is much easier for one of them to "capture" a single Member of Congress to advance its cause and to fund it. Each Representative has a much narrower focus than a Senator, each of whom has a much narrower focus than the President. Thus, Congress is more susceptible to pressure from factions, as one Member who wants a favor for a particular faction trades his or her support for another Member's preferred faction. We all know that this appropriations log-rolling occurs. Ultimately,

the President is presented with one large spending bill, much of which reflects the political horse-trading that occurs.

The line-item veto sheds light on the power of private interests that seek to use the appropriations process for their one private benefit. By excising line items and making Congress vote on them individually in an effort to override the veto, the President can shed light directly on these private interests and force Members to be more accountable to their constituents by voting on the projects identified by the President as unnecessary and wasteful.

Some, like the distinguished chairman of the Appropriations Committee contend that the line-item veto would result in an intolerable shift of power from Congress to the Executive. To this argument, I have two responses. The first is that, as I believe I show, the Framers of the Constitution intended that the President have the authority to veto individual items of appropriations. Thus, in their concept, the line-item veto does not offend the balance of powers.

The second responses is related to the entire structure of the Government. The Constitution places the power of the purse in the hands of Congress. It is peculiarly legislative function to decide how much money to spend and how to allocate these expenditures. In this regard, however, spending is no different than any other legislative function. Thus, there is no reason to consider the line-item veto any more of an infringement of the separation of powers than the President's ability to veto bills at all. Hamilton recognized the structure importance of the veto in the *Federalist* 73, when he wrote that the veto provides "an additional security against the inaction of improper laws—to guard the community against the effects of faction, precipitancy, or of any impulse unfriendly to the public good, which may happen to influence a majority of the—legislative—body" from time to time. The Framers were acutely aware that it is the legislative branch that is most susceptible to fractional influences. Thus, they understood that the veto served a critical role.

But, opponents of the line-item veto argue, Hamilton's point went to bills as a whole, and not simply pieces of them. The legislative process necessarily relies on horse-trading to get things done, and nowhere is such trading more important than in the appropriations process. This response, while acknowledging the reality, is an answer that directly, contradicts the Framers' intent and leads to bad government, for it accepts the premise that factions and the prominent Members of Congress who support their causes must be bought off with goodies in appropriations bills. But that is precisely the evil that the Framers sought to insulate against with the veto.

Given the role of factions in the appropriation process, the use of the line-item veto is completely consistent with the Framers' conception of the veto power. Indeed, that is not surprising, as the Framers believed they had granted the President a line-item veto. Despite the arguments of the distinguished Chairman of the Appropriations Committee to the contrary, the line-item veto was not only intended by the Framers but is an appropriate limitation on congressional authority to combat the force of faction.

This process would not surprise the Framers of the Constitution. Madison and the others who met in Philadelphia in 1787 were not

just knowledgeable about history. They were practical men of affairs and politics who understood human nature. They knew the dangers of faction and the likelihood that faction would influence Congress more so that the President, who is responsible to the entire Nation, not a single district or State.

Thus, it is only to be expected that the Framers provided Congress with the power to appropriate funds, tempered with executive authority to line-item veto as a means of expunging special interest spending was their resolution, and history bears this out. The line-item veto is entirely consistent with the Framers' conception of government and the dangers of faction.

Shortly after the new Federal Constitution was ratified, several States, including Georgia, Vermont, Kentucky, and my home State of Pennsylvania, rewrote their constitutions to conform with the Federal one and specifically incorporated language to give to their executives the authority to exercise a line-item veto. These States were in addition to the States like Massachusetts and New York where the Governor's power to revise items of appropriation was well-established. For example, article II, section 10 of the Georgia Constitution of 1789 gave the governor the power of "revision of all bills" subject to a two-thirds vote of the general assembly. Section 16 of chapter II of the Vermont Constitution of 1793 vested in the governor and council the right to revise legislation or to propose amendments to the legislature, which would have to adopt the proposed amendments if the bill were to be enacted. Article I of the Kentucky Constitution of 1792 and section 23 of article I of the Pennsylvania Constitution of 1700 tracked the language of article I, section 7, clause 3 of the new United States Constitution.

The chief executives of both the State and new Federal Governments immediately employed the line-item veto. On the national level, the early practice was one in which the President viewed appropriations as permissive rather than mandatory. President Washington and his Treasury Secretary Hamilton assumed the authority to shift appropriated funds from one account to another. Although his party had at one time opposed such transfers, once he became President, Republican Thomas Jefferson also embraced the practice, and at least on two occasions, he refused to spend money that the Congress had appropriated.

The practice continued. As late as 1830, President Andrew Jackson declined to enforce provisions of a congressional enactment. Likewise in 1842, President John Tyler signed a bill that he refused to execute in full. It was not until after the Civil War that a President assumed he did not already have the authority to veto individual items of appropriation, when President Grant urged the Congress to grant him such authority.

But, President Grant's view was anomalous. The Framers' understanding and their original intent was that the Constitution did provide the authority to veto or impound specific items of appropriation. The States understood that to be the case, and many in fact embraced the Federal model as a means of providing their own executives this same authority.

I believe that the evidence strongly supports the position that under the Constitution the President has the authority to employ the line-item veto. At the very least, the President's use of the line-

item veto will almost certainly engender a court challenge if the veto is not overridden. The courts will then decide whether the Constitution authorizes the line-item veto. If they find it does, then the matter will be settled. If they find it does not, then Congress may revisit the issue and decide whether to amend the Constitution or grant statutory enhanced rescission authority to the President.

In conclusion, I urge the President to employ the line-item veto if he is seriously committed to deficit reduction. As I have argued here today, the authority to exercise this power is not dependent on the adoption of a constitutional amendment or any additional legislation; it already exists. The Framers' intent and the historical practice of the first Presidents serve as ample evidence that the Constitution confers to the executive the authority to line-item veto. Given President Clinton's use of the line-item veto as Governor and his support of it as a candidate, I urge him to act on that authority consistent with his rightful power to do so.

I ask unanimous consent that a copy of a memorandum I have prepared summarizing my research into the Framers' intent to establish a line-item veto and the early national practice be included in the RECORD.

MEMORANDUM

Re: Presidential authority to exercise a line-item veto.

The President currently enjoys the authority under the Constitution to exercise a line-item veto without any additional constitutional or statutory authority. The constitutional basis for the President's exercise of a line-item veto is to be found in article I, section 7, clause 3 of the Constitution.

The first article of the Constitution vests legislative authority in the two Houses of Congress established thereunder. Clause 2 of section 7 of the first article provides the presidential authority and procedure to veto "bills." This is the basis of the President's clearly established authority to veto legislation. The provision also established the procedure under which Congress may override the President's veto.

The question of conferring authority on the President to veto specific items within a bill will not be discussed at the Constitutional Convention. During the drafting of the Constitution in 1787, however, James Madison noted in his subsequently published diary that he had expressed his concern that Congress might try to get around the President's veto power by labeling "bills" by some other term. In response to Madison's concern and in order to guard the President's veto authority from encroachment or being undermined and preserve the careful balance of power it sought to establish, Edmund Randolph of Virginia proposed and the Convention adopted language from the Massachusetts Constitution which became article I, section 7, clause 3.

This clause requires that in addition to bills: "Every Order, Resolution or Vote to which the Concurrence of the Senate and House of Representatives may be necessary (except on a question of Adjournment) shall be presented to the President of the United States and before the Same shall take Effect, shall be approved by him, or being disapproved by him, shall be repassed by two thirds of the

Senate and House of Representatives, according to the Rules and Limitations prescribed in the Case of a Bill (these being set forth in article I, section 7, clause 2).

In combination with the preceding clause 2 of section 7, this third clause gives the President the authority to veto any legislative adoption of Congress, subject to congressional override.

The historical context of its adoption supports the position that clause 3 vests the President with authority to veto individual items of appropriation.

According to the noted historian Professor Forrest McDonald in his paper "The Framers' Conception of the Veto Power," published in "Pork Barrels and Principles: The Politics of the Presidential Veto" 1-7 (1988), clause 3 was taken directly from a provision of the Massachusetts Constitution of 1780. This provision set in the State's fundamental charter Massachusetts law dating to 1733 first implemented to give the Royal Governor a check on unbridled spending by the colonial legislature, which had put the colony in serious debt by avoiding the governor's veto power by appropriating money through "votes" rather than legislation. Professor McDonald has also noted in an opened article published in the "Wall Street Journal" that the agents of the Kind of England could disapprove or alter colonial legislative enactments "in any part thereof."

Discussion and debate at the Constitutional Convention over the meaning of clause 3 was scant. In his notes of the proceedings of the Convention, our main source for the intent of the Framers of our fundamental Charter, Madison noted only that Roger Sherman of Connecticut "thought [article I, section 7, clause 3] unnecessary, except as to votes taking money out of the Treasury." No other member of the Convention appears to have discussed the clause. Sherman's comment was important, as it demonstrates the context in which the Framers saw the newly added provision: it was needed only insofar as it pertained to votes appropriating money from the Treasury. Perhaps discussion was so scant because the meaning of the clause was clear to the Framers.

In his 1988 article, Professor McDonald notes that two Anti-Federalist pamphleteers opposed the proposed Constitution in part because article I, section 7, clause 3 "made too strong a line-item veto in the hands of the President." The Federalist Governor of Massachusetts, James Bowdoin, argued during the Massachusetts ratifying convention that the veto power was to be read in light of the Massachusetts experience in which, as noted, the line-item veto was exercised by the governor. In "The Federalist" No. 69, Alexander Hamilton wrote that the constitutional veto power "tallies exactly with the revisionary authority of the council of revision" in New York, which, according to Professor McDonald, had the power to revise appropriations bills, not merely turn down the entire legislative enactment. Massachusetts, Georgia, and Vermont also gave their executives revisionary authority over legislative appropriations.

Roger Sherman's comment was prescient, as he focused on the issue confronting us over 200 hundred years later. The language of clause 3 has proven to be redundant, as Congress has not attempted to avoid the strictures of the second clause. But clause 3 is not superfluous as regards, in Sherman's language, "votes taking

money out of the Treasury." In order to give effect to this provision, the President must have the authority to separate out different items from a single appropriation bill and veto one or more of those individual items.

This reading is consistent with the early national practice, under which Presidents viewed appropriations as permissive rather than mandatory. President Washington and his Treasury Secretary, Alexander Hamilton, assumed that the President had the authority to shift appropriated funds from one account to another. The former Anti-Federalists, having become the Republican party, objected to these transfers. Once a Republican, Thomas Jefferson, became President, however, he too considered appropriations bills to be permissive and refused on at least two occasions to spend money that had been appropriated by Congress.

Professor McDonald points out in his 1988 article that shortly after the new Federal Constitution was ratified, several of the States rewrote their constitutions to conform their basic charters to the new Federal one. The contemporaneous experience of these States is highly relevant to the Framers' understanding of the text they had devised. Several States adopted new constitutions in 1789 or the early 1790's. Of these, Georgia and Pennsylvania, and the new States of Vermont and Kentucky all adopted constitutions that included the phrasing of article I, section 7 to enable their governors to exercise the line-item veto.

According to a 1984 report of the Committee on the Budget of the House of Representatives, "The Line-Item Veto: An Appraisal," the practice at the national level of the President's exercise of a line-item veto continued. President Andrew Jackson declined, over congressional objection, to enforce provisions of a congressional enactment in 1830. In 1842, President John Tyler signed a bill that he refused to execute in full. Instead, he advised Congress that he had deposited with the Secretary of State "an exposition of my reasons for giving [the bill] my sanction." Congress issued a report challenging the legality of the President's action.

Professor McDonald noted that between 1844 and 1859, three northern States, responding to fiscal problems, adopted constitutions explicitly providing their governors with power to veto individual items of appropriation. Building on this history, the provisional Constitution of the Confederate States of America also made explicit that the President of the Confederacy had line-item veto authority.

It was only after the Civil War that President Grant suggested that he did not already enjoy the authority to veto individual items of appropriation and other specific riders to legislation and urged that he be granted such authority. President Grant's position that he did not enjoy a line-item veto under the Constitution was directly contradictory to the original understanding of the Constitution, a position endorsed by Presidents Washington, Jefferson, Jackson, and Tyler through usage. It ignored the original understanding of the Framers of the Constitution and the historical context in which that document was drafted. Proposals for a Federal line-item veto have been made intermittently since the Grant Administration.

An alternative argument based on the language of article I, section 7, clause 2, but consistent with the original understanding of the veto power, has also been made to support the President's exercise of a line-item veto. In discussing why the issue of a line-item veto was not raised during the Constitutional Convention, Professor Russell Ross of the University of Iowa and former United States Representative Fred Schwengel wrote in an article "An Item Veto for the President?," 12 "Presidential Studies Quarterly" 66 (1992), "[i]t is at least possible that this subject was not raised because those attending the Convention gave the term 'bill' a much narrower construction than has since been applied to the term. It may have been envisioned that a bill would be concerned with only one specific subject and that subject would be clearly stated in the title."

Professor Ross and Mr. Schwengel quote at length the former Chairman of the House Judiciary Committee, Hatton W. Sumners, who defended this view in a 1937 letter to the Speaker of the House that was reprinted in the Congressional Record on February 27, 1942. Chairman Sumners was of the view that the term "bill" as used in clause 2 of section 7 of the first article was intended to be applied narrowly to refer to "items which might have been the subject matter of separate bills." This reading he thought most consistent with the purpose and plan of the Constitution. Thus, Chairman Sumners believed that clause 2, as originally intended, could also be relied upon to vest line-item veto authority in the President.

Chairman Sumner's reading is also consistent with the practice in some of the colonies. Professor McDonald cites to the Maryland constitution of 1776, which expressly provided that any enacted bill could have only one subject. Several other States followed Maryland during the succeeding decades and limited legislative enactments to a single subject.

A review of the contemporary understanding of the veto provisions of the Constitution when drafted supports the view that the President currently enjoys line-item veto authority, which several Presidents have exercised.

[From the Congressional Record page D675]

June 15, 1993

LINE ITEM VETO

Committee on the Judiciary: Subcommittee on the Constitution concluded hearings to examine whether the President of the United States' role in the legislative process includes the authority to veto individual parts or items of a measure, including individual line items in an appropriation measure, and a related measure, S. Res. 195, after receiving testimony from Senators Specter and Thurmond; Walter Dellinger, Assistant Attorney General, Office of Legal Counsel, Department of Justice; Charles J. Cooper, Shaw,

Pittman, Potts & Trowbridge, Washington, D.C.; Ronald D. Rotunda, University of Illinois College of Law, Champaign; Robert J. Spitzer, State University of New York, Cortland; and J. Gregory Sidak, American Enterprise Institute for Public Policy Research, Washington, D.C.

July 26, 1994

[From the Congressional Record page S9745]

III

103D CONGRESS
2D SESSION**S. RES. 245**

Expressing the sense of the Senate that the President should exercise the line-item veto without awaiting the enactment of additional authorization for the purpose of obtaining a judicial determination of its constitutionality.

IN THE SENATE OF THE UNITED STATES

JULY 26 (legislative day, JULY 20), 1994

Mr. SPECTER submitted the following resolution; which was referred to the Committee on the Judiciary

RESOLUTION

Expressing the sense of the Senate that the President should exercise the line-item veto without awaiting the enactment of additional authorization for the purpose of obtaining a judicial determination of its constitutionality.

Whereas Federal spending and the Federal budget deficit have reached unreasonable and insupportable levels;

Whereas a line-item veto would enable the President to eliminate wasteful pork-barrel spending from the Federal budget and curb the deficit before considering cuts in important programs;

Whereas evidence may suggest that the Framers of the Constitution intended that the President have the authority to exercise the line-item veto;

Whereas scholars who have studied the matter are not unanimous on the question of whether the President currently has the authority to exercise the line-item veto;

Whereas there has never been a definitive judicial ruling that the President does not have the authority to exercise the line-item veto; and

Whereas some scholars who have studied the question agree that a definitive judicial determination on the issue of whether the President currently has the authority to exercise the line-item veto may be warranted: Now, therefore, be it

- 1 *Resolved*, That it is the sense of the Senate that the
- 2 President should exercise the line-item veto without await-
- 3 ing the enactment of additional authorization for the
- 4 purpose of obtaining a judicial determination of its con-
- 5 stitutionality.

S. RES. 245

PENDING BEFORE THE HOUSE OF REPRESENTATIVES

HOUSE BILLS

January 5, 1993

[From the Congressional Record pages H62-64]

I

103D CONGRESS
1ST SESSION**H. R. 24**

To give the President legislative, line-item veto authority over budget authority in appropriations bills in fiscal years 1994 and 1995.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 5, 1993

Mr. SOLOMON (for himself, Mr. ALLARD, Mr. BACHUS of Alabama, Mr. BARRETT of Nebraska, Mr. BOEHNER, Mr. BURTON of Indiana, Mr. DREIER, Mr. DUNCAN, Ms. FOWLER, Mr. GALLEGLY, Mr. GILLMOR, Mr. HALL of Texas, Mr. HOUGHTON, Mr. HUNTER, Mr. SAM JOHNSON of Texas, Mr. LEWIS of Florida, Mr. McCANDLESS, Mr. MCHUGH, Mr. MICHEL, Ms. MOLINARI, Mr. OXLEY, Mr. PACKARD, Mr. QUILLEN, Mr. RAMISTAD, Mr. ROHRBACHER, Mr. SAXTON, Mr. SCHIFF, Mr. SENSENBRENNER, Mr. SMITH of Texas, Mr. STUMP, Mr. SUNDQUIST, Mr. UPTON, Mr. WALKER, Mr. WALSH, and Mr. ZELIFF) introduced the following bill; which was referred jointly to the Committees on Government Operations and Rules

A BILL

To give the President legislative, line-item veto authority over budget authority in appropriations bills in fiscal years 1994 and 1995.

1 *Be it enacted by the Senate and House of Representa-*
 2 *tives of the United States of America in Congress assembled,*
 3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the "The Legislative Line

1 SEC. 2. LEGISLATIVE LINE ITEM VETO RESCISSION AU-
2 THORITY.

3 (a) IN GENERAL.—Notwithstanding the provisions of
4 part B of title X of The Congressional Budget and Im-
5 poundment Control Act of 1974, and subject to the provi-
6 sions of this section, the President may rescind all or part
7 of any discretionary budget authority for fiscal years 1994
8 or 1995 which is subject to the terms of this Act if the
9 President—

10 (1) determines that—

11 (A) such rescission would help balance the
12 Federal budget, reduce the Federal budget defi-
13 cit, or reduce the public debt;

14 (B) such rescission will not impair any es-
15 sential Government functions;

16 (C) such rescission will not harm the na-
17 tional interest; and

18 (D) such rescission will directly contribute
19 to the purpose of this Act of limiting discre-
20 tionary spending in fiscal years 1994 or 1995,
21 as the case may be; and

22 (2) notifies the Congress of such rescission by
23 a special message not later than twenty calendar
24 days (not including Saturdays, Sundays, or holidays)
25 after the date of enactment of a regular or supple-
26 mental appropriations act for fiscal year 1994 or

1 1995 or a joint resolution making continuing appro-
2 priations providing such budget authority for fiscal
3 year 1994 or 1995, as the case may be.

4 The President shall submit a separate rescission message
5 for each appropriations bill under this paragraph.

6 **SEC. 3 RESCISSION EFFECTIVE UNLESS DISAPPROVED.**

7 (a) Any amount of budget authority rescinded under
8 this Act as set forth in a special message by the President
9 shall be deemed canceled unless during the period de-
10 scribed in subsection (b), a rescission disapproval bill mak-
11 ing available all of the amount rescinded is enacted into
12 law.

13 (b) The period referred to in subsection (a) is—

14 (1) a congressional review period of twenty cal-
15 endar days of session during which Congress must
16 complete action on the rescission disapproval bill and
17 present such bill to the President for approval or
18 disapproval;

19 (2) after the period provided in paragraph (1),
20 an additional ten days (not including Sundays) dur-
21 ing which the President may exercise his authority
22 to sign or veto the rescission disapproval bill; and

23 (3) if the President vetoes the rescission dis-
24 approval bill during the period provided in para-

1 graph (2), an additional five calendar days of session
2 after the date of the veto.

3 (c) If a special message is transmitted by the Presi-
4 dent under this Act and the last session of the Congress
5 adjourns sine die before the expiration of the period de-
6 scribed in subsection (b), the rescission shall not take ef-
7 fect. The message shall be deemed to have been
8 retransmitted on the first day of the succeeding Congress
9 and the review period referred to in subsection (b) (with
10 respect to such message) shall run beginning after such
11 first day.

12 **SEC. 4. DEFINITIONS.**

13 For purposes of this Act—

14 (a) the term “rescission disapproval bill” means
15 a bill or joint resolution which only disapproves a re-
16 scission of discretionary budget authority for fiscal
17 year 1993, in whole, rescinded in a special message
18 transmitted by the President under this Act; and

19 (b) the term “Calendar days of session” shall
20 mean only those days on which both Houses of Con-
21 gress are in session.

22 **SECTION 5. CONGRESSIONAL CONSIDERATION OF LEGIS-**
23 **LATIVE LINE ITEM VETO RESCISSIONS.**

24 (a) **PRESIDENTIAL SPECIAL MESSAGE.**—Whenever
25 the President rescinds any budget authority as provided

5

1 in this Act, the President shall transmit to both Houses
2 of Congress a special message specifying—

3 (1) the amount of budget authority rescinded;

4 (2) any account, department, or establishment
5 of the Government to which such budget authority
6 is available for obligation, and the specific project or
7 governmental functions involved;

8 (3) the reasons and justifications for the deter-
9 mination to rescind budget authority pursuant to
10 this Act;

11 (4) to the maximum extent practicable, the esti-
12 mated fiscal, economic, and budgetary effect of the
13 rescission; and

14 (5) all factions, circumstances, and consider-
15 ations relating to or bearing upon the rescission and
16 the decision to effect the rescission, and to the maxi-
17 mum extent practicable, the estimated effect of the
18 rescission upon the objects, purposes, and programs
19 for which the budget authority is provided.

20 (b) TRANSMISSION OF MESSAGES TO HOUSE AND
21 SENATE.—

22 (1) Each special message transmitted under
23 this Act shall be transmitted to the House or Rep-
24 resentatives and the Senate on the same day, and
25 shall be delivered to the Clerk of the House of Rep-

1 representatives if the House is not in session, and to
2 the Secretary of the Senate if the Senate if the Sen-
3 ate is not in session. Each special message so trans-
4 mitted shall be referred to the appropriate commit-
5 tees of the House of Representatives and the Senate.
6 Each message shall be printed as a document of
7 each House.

8 (2) Any special message transmitted under this
9 Act shall be printed in the first issue of the Federal
10 Register published after such transmittal.

11 (c) REFERRAL OF RESCISSION DISAPPROVAL
12 BILLS.—Any rescission disapproval bill introduced with
13 respect to a special message shall be referred to the appro-
14 priate committees of the House of Representatives or the
15 Senate, as the case may be.

16 (d) CONSIDERATION IN THE SENATE.—

17 (1) Any rescission disapproval bill received in
18 the Senate from the House shall be considered in
19 the Senate pursuant to the provisions of this Act.

20 (2) Debate in the Senate on any rescission dis-
21 approval bill and debatable motions and appeals in
22 connection therewith, shall be limited to not more
23 than ten hours. The time shall be equally divided be-
24 tween, and controlled by, the majority leader and the
25 minority leader or their designees.

1 (3) Debate in the Senate on any debatable mo-
2 tions or appeal in connection with such bill shall be
3 limited to one hour, to be equally divided between,
4 and controlled by the mover and the manager of the
5 bill, except that in the event the manager of the bill
6 is in favor of any such motion or appeal, the time
7 in opposition thereto shall be controlled by the mi-
8 nority leader or his designee. Such leaders, or either
9 of them, may, from the time under their control on
10 the passage of the bill, allot additional time to any
11 Senator during the consideration of any debatable
12 motion or appeal.

13 (4) A motion to further limit debate is not de-
14 batable. A motion to recommit (except a motion to
15 recommit with instructions to report back within a
16 specified number of days not to exceed one, not
17 counting any day on which the Senate is not in ses-
18 sion) is not in order.

19 (e) POINTS OF ORDER.—

20 (1) It shall not be in order in the Senate or the
21 House of Representatives to consider any rescission
22 disapproval bill that relates to any matter other than
23 the rescission budget authority transmitted by the
24 President under this Act.

1 (2) It shall not be in order in the Senate or the
2 House of Representatives to consider any amend-
3 ment to a rescission disapproval bill.

4 (3) Paragraphs (1) and (2) may be waived or
5 suspended in the Senate only by a vote of three-
6 fifths of the members duly chosen and sworn.

TRUE LINE ITEM VETO BILL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. SOLOMON] is recognized for 15 minutes.

Mr. SOLOMON. Mr. Speaker, today I am introducing, with over 30 House cosponsors, the Legislative Line Item Veto Act of 1993—a true line-item veto bill.

I emphasize that this is a true line-item veto bill because, unlike an alternative being touted by the Speaker, this would ultimately require a two-thirds vote of both Houses to block a President's line-item rescission of all or part of the budget authority for matters contained in appropriations bills.

Under my proposal, which would be effective for all appropriations bills in fiscal years 1994 and 1995, the President could propose a rescission or cancellation of budget authority for all or part of any item contained in any regular, supplemental or continuing appropriations bill. Congress would then have 20 days in which both Houses, by majority vote, could pass a bill or joint resolution to disapprove the rescission. The President would then have 10 days in which to sign or veto the disapproval bill. Since he is likely to veto any bill disapproving his proposed rescissions, it would then take a two-thirds vote of both Houses under the Constitution, to override the veto and force the money to be spent.

Mr. Speaker, candidate Clinton said he was for a line-item veto. He should not be fooled into thinking that the expedited rescission approach being put forward by the Speaker is a true line-item veto. To the contrary, it is simply the current rescission approval approach under the Budget Act under a compressed time frame with mandatory votes on rescission proposals.

Since it would take a law enacted by Congress and signed by the President to cancel spending, a majority of either House could force the money to be spent by voting against a rescission approval bill. Put another way, as few as 51 Senators could block the President's spending cut proposals.

Mr. Speaker, my approach is what the CRS calls enhanced rescission authority as opposed to mere expedited rescission authority. The President's powers are enhanced because my bill reverses the current rescission approval approach in the Budget Act to a rescission disapproval approach. And that is what leads to the ultimate requirement that two-thirds of both Houses must override a President's line-item veto to permit the spending to go forward.

Mr. Speaker, last year I attempted to offer this approach to several appropriations bills, and we unfortunately lost on procedural votes on the rules involved. This year it is my intention to offer this initially as an amendment to the debt limit bill since I think we need this and other fiscal disciplines before we can approve any further increase in the debt limit. I urge my colleagues who have not yet done so to cosponsor this bill.

At this point in the RECORD, Mr. Speaker, I include a summary and the text of my bill, a press statement I issued in November, and a letter I sent to President-elect Clinton. The items follow:

COSPONSORS

Mr. Allard, Mr. Bachus of Alabama, Mr. Barrett of Nebraska, Mr. Boehner, Mr. Burton of Indiana, Mr. Dreier, Mr. Duncan, Ms. Fowler, Mr. Gallegly, Mr. Gillmor, Mr. Hall of Texas, Mr. Houghton, Mr. Hunter, Mr. Sam Johnson of Texas, Mr. Lewis of Florida, Mr. McCandless, Mr. McHugh, Mr. Michel, Ms. Molinari, Mr. Oxley, Mr. Packard, Mr. Quillen, Mr. Ramstad, Mr. Rohrabacher, Mr. Schiff, Mr. Sensenbrenner, Mr. Smith of Texas, Mr. Stump, Mr. Sundquist, Mr. Upton, Mr. Walker, Mr. Walsh, and Mr. Zeliff.

SUMMARY OF LEGISLATIVE LINE-ITEM VETO ACT OF 1992

The bill is based on H.R. 78 introduced by Rep. Jimmy Duncan (R-TN) on Jan. 3, 1991 (referred to the Committee on Rules and Government Operations: 124 current cosponsors), except that it would only apply to fiscal 1993 appropriations bills;

Under the terms of the bill, the president could send Congress a special message within 20 calendar days after the enactment of a fiscal 1993 appropriations bill, rescinding all or part of any discretionary budget authority contained in that bill;

The budget authority would be considered canceled unless both Houses, by majority vote, pass a joint resolution disapproving the rescission, in whole, within 20 days of session after the message is received, and the joint resolution becomes law;

After congressional passage of a joint resolution of disapproval, the President would have the constitutional ten days in which to sign or veto it, and, if it is vetoed, Congress would have an additional five days of session in which to vote to override the veto (a two-thirds vote of both Houses being required under the Constitution);

A joint resolution of disapproval would be subject to ten hours of debate in the Senate and in accordance with the rules of the House, and would not be subject to amendment in either House;

If Congress adjourns its final session sine die before the expiration of the 20-day review period, the rescission would not take effect, but the message shall be deemed to have been resubmitted on the first day of the new Congress.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, November 16, 1992.

Hon. BILL CLINTON,
President-Elect of the United States, Transition Headquarters,
Washington, DC.

DEAR MR. PRESIDENT-ELECT: First of all, congratulations on your election. I look forward to working with you and your Administration on many areas of common interest and concern in the new Congress. I welcome your call for a bipartisan approach to problems and I know our Republican Leader feels the same.

Second, I want to strongly urge you to stick to your campaign pledge of wanting a true line-item veto and to reject any watered-

down variations. Specifically, I would urge you to take a hard and close look at the proposal Speaker Foley has urged you to accept.

Contrary to the way he has represented it, it is not "enhanced rescission" approach and it would not require a majority of both Houses to override your rescissions (that would be unconstitutional under the Chadha doctrine). The compromise to which the Speaker refers is H.R. 2164 (102d Congress) as introduced by Representative Carper of Delaware, the "Expedited Considerations of Proposed Rescissions Act of 1991," which was passed by the House on October 2, 1992.

It would compress the current rescission approval period for Congress from 45-days to 20-days, permit the President to submit a rescission package with respect to each of 13 regular appropriations bills, prohibit the President from rescinding more than 25% of a newly authorized program or more than the difference between current-year and previous-year budget authority for a previously authorized program or item, while allowing up to a 100% rescission for any unauthorized item of budget authority. It also differs from existing Budget Act rescission procedures in that it mandates the introduction of and a vote on each rescission message submitted by the President and prohibits any amendments to the rescission package.

But like the current rescission procedures, for the rescission to take effect, a rescission approval bill must be passed by majority vote of both Houses and signed into law by the President. Put another way, instead of requiring a majority of both Houses to block a rescission, a majority of just one House could do so by rejecting the rescission approval bill.

What I attempted to offer in the House this year on several occasions was a truer legislative, line-item veto, enhanced rescission bill (H.R. 5915). It too would permit the President to submit a rescission package with respect to each appropriations bill and give Congress 20-days in which to act on it. But, unlike the Carper bill, it would permit the rescission to take effect unless both Houses of Congress pass a rescission disapproval bill, and it becomes law. Put another way, while a majority of both House is needed to pass a disapproval bill, if it is vetoed by the President, as expected, it would then take two-thirds of both Houses to override the veto and force the money to be spent.

I intend to reintroduce this bill on the first day of the new Congress on January 5th, and will press for early action on it, probably as an amendment to the bill raising the public debt limit in February or March. While my bill will propose a two-year trial run of this enhanced rescission approach, I will also reintroduce a line-item veto constitutional amendment that would be permanent, and again intend to support a discharge petition if it appears it will not be reported from the House Judiciary Committee.

In conclusion, I hope you will not now back off your campaign pledge simply because the leadership of Congress does not like the line-item veto. I think you will find that a true line item veto has widespread support from the general membership of both parties in both Houses.

With all best wishes for your presidency, I am
Sincerely yours.

GERALD B. SOLOMON,
Member of Congress.

[From the Congressional Record pages H82-83]

By Mr. SOLOMON (for himself, Mr. ALLARD, Mr. BACCHUS of Alabama, Mr. BARRETT of Nebraska, Mr. BOEHNER, Mr. BURTON of Indiana, Mr. DREIER, Mr. DUNCAN, Mrs. FOWLER, Mr. GALLEGLY, Mr. GILLMOR, Mr. HALL of Texas, Mr. HOUGHTON, Mr. HUNTER, Mr. SAM JOHNSON of Texas, Mr. LEWIS of Florida, Mr. MCCANDLESS, Mr. MCHUGH, Mr. MICHEL, Ms. MOLINARI, Mr. OXLEY, Mr. PACKARD, Mr. QUILLEN, Mr. RANSTAD, Mr. ROHRABACHER, Mr. SAXTON, Mr. SCHIFF, Mr. SENSENBRENNER, Mr. SMITH of Texas, Mr. STUMP, Mr. SUNDQUIST, Mr. UPTON, Mr. WALKER, Mr. WALSH, and Mr. ZELIFF):

H.R. 24. A bill to give the President legislative, line-item veto authority over budget authority in appropriations bills in fiscal years 1994 and 1995; jointly, to the Committees on Government Operations and Rules.

January 6, 1993

[From the Congressional Record page H 104]

I

103D CONGRESS
1ST SESSION

H. R. 159

To grant the power to the President to reduce budget authority.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 5, 1993

Mr. DUNCAN (for himself and Mr. BURTON of Indiana, Mr. SOLOMON, Mr. HALL of Texas, Mr. BACCHUS of Florida, Mr. ARMEY, Mr. HYDE, Mr. HUNTER, Mr. WOLF, Mr. GILLMOR, Mr. OXLEY, Mr. HASTERT, Mr. BARRETT of Nebraska, Mr. NUSSLE, Mr. PETRI, Mr. BUNNING, Mr. GOSS, Mr. BAKER of Louisiana, Mr. ZIMMER, Mr. PARKER, Mr. RAVENEL, Mr. BARTON of Texas, Mr. COBLE, Mr. SMITH of Oregon, Mrs. VUCANOVICH, Mr. HANSEN, Mr. ZELIFF, Mr. RAMSTAD, Mr. SHAYS, Mr. ALLARD, Mr. QUILLEN, Mr. TAYLOR of North Carolina, Mr. HANCOCK, Mr. PAXON, Mr. SUNDQUIST, Mr. BEREUTER, Mr. ROHRBACHER, Mr. DOOLITTLE, Mr. CUNNINGHAM, Mr. COX, Mr. CAMP, Mr. GILCHREST, Mr. KYL, Mr. BATEMAN, Mr. HEFLEY, Mr. SENBENBRENNER, Mr. MCCREERY, Mr. CONDIT, Mr. WELDON, Mr. DREIER, Mr. ARCHER, Mr. ROTH, Mrs. MEYERS of Kansas, Mr. PACKARD, Mr. BOEHNER, Mr. BLUTE, Mr. FOWLER, Mr. PETE GEREN of Texas, Mr. BACCHUS of Alabama, Mr. UPTON, Mr. KASICH, Mr. POMBO, Mr. KING, Mr. SAM JOHNSON of Texas, Mr. LEWIS of Florida, Mr. CASTLE, Mr. STUMP, Mr. CANADY, Mr. SCHIFF, Mrs. JOHNSON of Connecticut, Mr. EMERSON, and Mr. CRAPO) introduced the following bill; which was referred to the Committees on Government Operations and Rules

A BILL

To grant the power to the President to reduce budget authority.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Legislative Line Item
3 Veto Act of 1993”.

4 **SEC. 2. ENHANCEMENT OF SPENDING CONTROL BY THE**
5 **PRESIDENT.**

6 The Impoundment Control Act of 1974 is amended
7 by adding at the end thereof the following new title:

8 **“TITLE XI—LEGISLATIVE LINE ITEM VETO**
9 **RESCISSION AUTHORITY**

10 **“PART A—LEGISLATIVE LINE ITEM VETO RESCISSION**
11 **AUTHORITY**

12 **“GRANT OF AUTHORITY AND CONDITIONS**

13 **“SEC. 1101. (a) IN GENERAL.—**Notwithstanding the
14 provisions of part B of title X and subject to the provisions
15 of part B of this title, the President may rescind all or
16 part of any budget authority, if the President—

17 **“(1) determines that—**

18 **“(A) such rescission would help balance**
19 the Federal budget, reduce the Federal budget
20 deficit, or reduce the public debt;

21 **“(B) such rescission will not impair any**
22 essential Government functions; and

23 **“(C) such rescission will not harm the na-**
24 tional interest; and

25 **“(2)(A) notifies the Congress of such rescission**
26 by a special message not later than 20 calendar days

1 (not including Saturdays, Sundays, or holidays)
2 after the date of enactment of a regular or supple-
3 mental appropriations Act or a joint resolution mak-
4 ing continuing appropriations providing such budget
5 authority; or

6 “(B) notifies the Congress of such rescission by
7 special message accompanying the submission of the
8 President’s budget to Congress and such rescissions
9 have not been proposed previously for that fiscal
10 year.

11 The President shall submit a separate rescission message
12 for each appropriations bill under paragraph (2)(A).

13 “(b) RESCISSION EFFECTIVE UNLESS DIS-
14 APPROVED.—(1)(A) Any amount of budget authority re-
15 scinded under this title as set forth in a special message
16 by the President shall be deemed canceled unless during
17 the period described in subparagraph (B), a rescission dis-
18 approval bill making available all of the amount rescinded
19 is enacted into law.

20 “(B) The period referred to in subparagraph (A) is—

21 “(i) a Congressional review period of 20 cal-
22 endar days of session under part B, during which
23 Congress must complete action on the rescission dis-
24 approval bill and present such bill to the President
25 for approval or disapproval;

1 “(ii) after the period provided in clause (i), an
2 additional 10 days (not including Sundays) during
3 which the President may exercise his authority to
4 sign or veto the rescission disapproval bill; and

5 “(iii) if the President vetoes the rescission dis-
6 approval bill during the period provided in clause
7 (ii), an additional 5 calendar days of session after
8 the date of the veto.

9 “(2) If a special message is transmitted by the Presi-
10 dent under this section during any Congress and the last
11 session of such Congress adjourns sine die before the expi-
12 ration of the period described in paragraph (1)(B), the
13 rescission shall not take effect. The message shall be
14 deemed to have been retransmitted on the first day of the
15 succeeding Congress and the review period referred to in
16 paragraph (1)(B) (with respect to such message) shall run
17 beginning after such first day.

18 “DEFINITIONS

19 “SEC. 1102. For purposes of this title the term ‘re-
20 scission disapproval bill’ means a bill or joint resolution
21 which only disapproves a rescission of budget authority,
22 in whole, rescinded in a special message transmitted by
23 the President under section 1101.

5

1 “PART B—CONGRESSIONAL CONSIDERATION OF
2 LEGISLATIVE LINE ITEM VETO RESCISSIONS

3 “PRESIDENTIAL SPECIAL MESSAGE

4 “SEC. 1111. Whenever the President rescinds any
5 budget authority as provided in section 1101, the Presi-
6 dent shall transmit to both Houses of Congress a special
7 message specifying—

8 “(1) the amount of budget authority rescinded;

9 “(2) any account, department, or establishment
10 of the Government to which such budget authority
11 is available for obligation, and the specific project or
12 governmental functions involved;

13 “(3) the reasons and justifications for the de-
14 termination to rescind budget authority pursuant to
15 section 1101(a)(1);

16 “(4) to the maximum extent practicable, the es-
17 timated fiscal, economic, and budgetary effect of the
18 rescission; and

19 “(5) all facts, circumstances, and considerations
20 relating to or bearing upon the rescission and the
21 decision to effect the rescission, and to the maxi-
22 mum extent practicable, the estimated effect of the
23 rescission upon the objects, purposes, and programs
24 for which the budget authority is provided.

1 “TRANSMISSION OF MESSAGES; PUBLICATION

2 “SEC. 1112. (a) DELIVERY TO HOUSE AND SEN-
3 ATE.—Each special message transmitted under sections
4 1101 and 1111 shall be transmitted to the House of Rep-
5 resentatives and the Senate on the same day, and shall
6 be delivered to the Clerk of the House of Representatives
7 if the House is not in session, and to the Secretary of
8 the Senate if the Senate is not in session. Each special
9 message so transmitted shall be referred to the appro-
10 priate committees of the House of Representatives and the
11 Senate. Each such message shall be printed as a document
12 of each House.

13 “(b) PRINTING IN FEDERAL REGISTER.—Any special
14 message transmitted under sections 1101 and 1111 shall
15 be printed in the first issue of the Federal Register pub-
16 lished after such transmittal.

17 “PROCEDURE IN SENATE

18 “SEC. 1113. (a) REFERRAL.—(1) Any rescission dis-
19 approval bill introduced with respect to a special message
20 shall be referred to the appropriate committees of the
21 House of Representatives or the Senate, as the case may
22 be.

23 “(2) Any rescission disapproval bill received in the
24 Senate from the House shall be considered in the Senate
25 pursuant to the provisions of this section.

26 “(b) FLOOR CONSIDERATION IN THE SENATE.—

1 “(1) Debate in the Senate on any rescission dis-
2 approval bill and debatable motions and appeals in
3 connection therewith, shall be limited to not more
4 than 10 hours. The time shall be equally divided be-
5 tween, and controlled by, the majority leader and the
6 minority leader or their designees.

7 “(2) Debate in the Senate on any debatable mo-
8 tion or appeal in connection with such a bill shall be
9 limited to 1 hour, to be equally divided between, and
10 controlled by, the mover and the manager of the bill,
11 except that in the event the manager of the bill is
12 in favor of any such motion or appeal, the time in
13 opposition thereto shall be controlled by the minority
14 leader or his designee. Such leaders, or either of
15 them, may, from the time under their control on the
16 passage of the bill, allot additional time to any Sen-
17 ator during the consideration of any debatable mo-
18 tion or appeal.

19 “(3) A motion to further limit debate is not de-
20 batable. A motion to recommit (except a motion to
21 recommit with instructions to report back within a
22 specified number of days, not to exceed 1, not count-
23 ing any day on which the Senate is not in session)
24 is not in order.

1 “(c) POINT OF ORDER.—(1) It shall not be in order
2 in the Senate or the House of Representatives to consider
3 any rescission disapproval bill that relates to any matter
4 other than the rescission of budget authority transmitted
5 by the President under section 1101.

6 “(2) It shall not be in order in the Senate or the
7 House of Representatives to consider any amendment to
8 a rescission disapproval bill.

9 “(3) Paragraphs (1) and (2) may be waived or sus-
10 pended in the Senate only by a vote of three-fifths of the
11 members duly chosen and sworn.”.

By Mr. DUNCAN (for himself, Mr. BURTON of Indiana, Mr. SOLOMON, Mr. HALL of Texas, Mr. BACCHUS of Florida, Mr. ARMEY, Mr. HYDE, Mr. HUNTER, Mr. WOLF, Mr. GILMOR, Mr. OXLEY, Mr. HASTERT, Mr. BARRETT of Nebraska, Mr. NUSSLE, Mr. PETRI, Mr. BUNNING, Mr. GOSS, Mr. BAKER of Louisiana, Mr. ZIMMER, Mr. PARKER, Mr. RAVENEL, Mr. BARTON of Texas, Mr. COBLE, Mr. SMITH of Oregon, Mrs. VUCANOVICH, Mr. HANSEN, Mr. ZELIFF, Mr. RAMSTAD, Mr. SHAYS, Mr. ALLARD, Mr. QUILLEN, Mr. TAYLOR of North Carolina, Mr. HANCOCK, Mr. PAXON, Mr. SUNDQUIST, Mr. BEREUTER, Mr. ROHRABACHER, Mr. DOOLITTLE, Mr. CUNNINGHAM, Mr. COX, Mr. CAMP, Mr. GILCHREST, Mr. KYL, Mr. BATEMAN, Mr. HEFLEY, Mr. SENSENBRENNER, Mr. McCRERY, Mr. CONDIT, Mr. WELDON, Mr. DREIER, Mr. ARCHER, Mr. ROTH, Mrs. MEYERS of Kansas, Mr. PACKARD, Mr. BOEHNER, Mr. BLUTE, Ms. FOWLER, Mr. GEREN of Texas, Mr. BACHUS of Alabama, Mr. UPTON, Mr. KASICH, Mr. POMBO, Mr. KING, Mr. SAM JOHNSON of Texas, Mr. LEWIS of Florida, Mr. CASTLE, Mr. STUMP, Mr. CANADY, Mr. SCHIFF, Mrs. JOHNSON of Connecticut, Mr. EMERSON, and Mr. CRAPO):

H.R. 159. A bill to grant the power to the President to reduce budget authority; jointly, to the Committees on Government Operations and Rules.

103D CONGRESS
1ST SESSION

H. R. 222

To amend the Congressional Budget and Impoundment Control Act of 1974 to require expeditious consideration by the Congress of a proposal by the President to rescind all or part of any item of budget authority if the proposal is transmitted to the Congress on the same day on which the President approves the bill or joint resolution providing such budget authority.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 5, 1993

Mr. JOHNSON of South Dakota introduced the following bill; which was referred to the Committee on Rules

A BILL

To amend the Congressional Budget and Impoundment Control Act of 1974 to require expeditious consideration by the Congress of a proposal by the President to rescind all or part of any item of budget authority if the proposal is transmitted to the Congress on the same day on which the President approves the bill or joint resolution providing such budget authority.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That this Act may be cited as the "Line-Item Rescission
4 Act of 1993".

1 **SEC. 2. EXPEDITED CONSIDERATION OF CERTAIN PRO-**
2 **POSED RESCISSIONS.**

3 (a) **IN GENERAL.**—Part B of title X of the Congres-
4 sional Budget and Impoundment Control Act of 1974 is
5 amended by redesignating sections 1013 through 1017 as
6 sections 1014 through 1018, respectively, and inserting
7 after section 1012 the following new section:

8 “**EXPEDITED CONSIDERATION OF CERTAIN PROPOSED**
9 **RESCISSIONS**

10 “**SEC. 1013. (a) TRANSMITTAL OF SPECIAL MES-**
11 **SAGE.**—The President may, on the same calendar day the
12 President approves any appropriation bill, transmit to
13 both Houses of the Congress, for consideration in accord-
14 ance with this section, one or more special messages pro-
15 posing to rescind all or part of any item of budget author-
16 ity provided in the appropriation bill.

17 “**(b) CONTENTS OF SPECIAL MESSAGE.**—

18 “(1) No special message may be considered in
19 accordance with this section if the special message
20 proposes to rescind more than one item of budget
21 authority.

22 “(2) Each special message transmitted under
23 subsection (a) shall specify, with respect to the item
24 of budget authority (or part thereof) proposed by the
25 message to be rescinded, the matters referred to in
26 paragraphs (1) through (5) of section 1012(a).

1 “(3) Each special message transmitted under
2 subsection (a) shall be accompanied by a draft bill
3 or joint resolution that would, if enacted, rescind the
4 budget authority proposed to be rescinded.

5 “(c) PROCEDURES.—

6 “(1)(A) On the day on which a special message
7 proposing to rescind an item of budget authority is
8 transmitted to the House of Representatives and the
9 Senate under subsection (a), the draft bill or joint
10 resolution accompanying such special message shall
11 be introduced (by request) by the majority leader of
12 the House of the Congress in which the appropria-
13 tion Act providing the budget authority originated.
14 If such House is not in session on the day on which
15 a special message is transmitted, the draft bill or
16 joint resolution shall be introduced in such House,
17 as provided in the preceding sentence, on the first
18 day thereafter on which such House is in session.

19 “(B) A draft bill or joint resolution introduced
20 in the House of Representatives or the Senate pur-
21 suant to subparagraph (A) shall be referred to the
22 Committee on Appropriations of such House. The
23 committee shall report the bill or joint resolution
24 without substantive revision (and with or without
25 recommendation) not later than 20 calendar days of

1 continuous session of the Congress after the date on
2 which the bill or joint resolution is introduced. A
3 committee failing to report a bill or joint resolution
4 within the 20-day period referred to in the preceding
5 sentence shall be automatically discharged from con-
6 sideration of the bill or joint resolution, and the bill
7 or joint resolution shall be placed on the appropriate
8 calendar.

9 “(C) A vote on final passage of a bill or joint
10 resolution introduced in a House of the Congress
11 pursuant to subparagraph (A) shall be taken on or
12 before the close of the 30th calendar day of continu-
13 ous session of the Congress after the date of the in-
14 troduction of the bill or joint resolution in such
15 House. If the bill or joint resolution is agreed to, the
16 Clerk of the House of Representatives (in the case
17 of a bill or joint resolution agreed to in the House
18 of Representatives) or the Secretary of the Senate
19 (in the case of a bill or joint resolution agreed to in
20 the Senate) shall cause the bill or joint resolution to
21 be engrossed, certified, and transmitted to the other
22 House of the Congress on the same calendar day on
23 which the bill or joint resolution is agreed to.

24 “(2)(A) A bill or joint resolution transmitted to
25 the House of Representatives or the Senate pursu-

1 ant to subparagraph (C) of paragraph (1) shall be
2 referred to the Committee on Appropriations of such
3 House. The committee shall report the bill or joint
4 resolution without substantive revision (and with or
5 without recommendation) not later than 20 calendar
6 days of continuous session of the Congress after the
7 bill or joint resolution is transmitted to such House.
8 A committee failing to report the bill or joint resolu-
9 tion within the 20-day period referred to in the pre-
10 ceding sentence shall be automatically discharged
11 from consideration of the bill or joint resolution, and
12 the bill or joint resolution shall be placed upon the
13 appropriate calendar.

14 “(B) A vote on final passage of a bill or joint
15 resolution transmitted to a House of the Congress
16 pursuant to subparagraph (C) of paragraph (1) shall
17 be taken on or before the close of the 30th calendar
18 day of continuous session of the Congress after the
19 date on which the bill or joint resolution is transmit-
20 ted to such House. If the bill or joint resolution is
21 agreed to in such House, the Clerk of the House of
22 Representatives (in the case of a bill or joint resolu-
23 tion agreed to in the House of Representatives) or
24 the Secretary of the Senate (in the case of a bill or
25 joint resolution agreed to in the Senate) shall cause

1 the engrossed bill or joint resolution to be returned
2 to the House in which the bill or joint resolution
3 originated, together with a statement of the action
4 taken by the House acting under this paragraph.

5 “(3)(A) A motion in the House of Representa-
6 tives to proceed to the consideration of a bill or joint
7 resolution under this section shall be highly privi-
8 leged and not debatable. An amendment to the mo-
9 tion shall not be in order, nor shall it be in order
10 to move to reconsider the vote by which the motion
11 is agreed to or disagreed to.

12 “(B) Debate in the House of Representatives
13 on a bill or joint resolution under this section shall
14 be limited to not more than 10 hours, which shall
15 be divided equally between those favoring and those
16 opposing the bill or joint resolution. A motion fur-
17 ther to limit debate shall not be debatable. It shall
18 not be in order to move to recommit a bill or joint
19 resolution under this section or to move to recon-
20 sider the vote by which the bill or joint resolution is
21 agreed to or disagreed to.

22 “(C) Motions to postpone, made in the House
23 of Representatives with respect to the consideration
24 of a bill or joint resolution under this section, and

1 motions to proceed to the consideration of other
2 business, shall be decided without debate.

3 “(D) All appeals from the decisions of the
4 Chair relating to the application of the Rules of the
5 House of Representatives to the procedure relating
6 to a bill or joint resolution under this section shall
7 be decided without debate.

8 “(E) Except to the extent specifically provided
9 in the preceding provisions of this subsection, con-
10 sideration of a bill or joint resolution under this sec-
11 tion shall be governed by the Rules of the House of
12 Representatives applicable to other bills and joint
13 resolutions in similar circumstances.

14 “(4)(A) A motion in the Senate to proceed to
15 the consideration of a bill or joint resolution under
16 this section shall be privileged and not debatable. An
17 amendment to the motion shall not be in order, nor
18 shall it be in order to move to reconsider the vote
19 by which the motion is agreed to or disagreed to.

20 “(B) Debate in the Senate on a bill or joint res-
21 olution under this section, and all debatable motions
22 and appeals in connection therewith, shall be limited
23 to not more than 10 hours. The time shall be equally
24 divided between, and controlled by, the majority
25 leader and the minority leader or their designees.

“(C) Debate in the Senate on any debatable motion or appeal in connection with a bill or joint resolution under this section shall be limited to not more than 1 hour, to be equally divided between, and controlled by, the mover and the manager of the bill or joint resolution, except that in the event the manager of the bill or joint resolution is in favor of any such motion or appeal, the time in opposition thereto, shall be controlled by the minority leader or his designee. Such leaders, or either of them, may, from time under their control on the passage of a bill or joint resolution, allot additional time to any Senator during the consideration of any debatable motion or appeal.

“(D) A motion in the Senate to further limit debate on a bill or joint resolution under this section is not debatable. A motion to recommit a bill or joint resolution under this section is not in order.

“(d) AMENDMENTS PROHIBITED.—No amendment to a bill or joint resolution considered under this section shall be in order in either the House of Representatives or the Senate. No motion to suspend the application of this subsection shall be in order in either House, nor shall it be in order in either House for the Presiding Officer to enter-

tain a request to suspend the application of this subsection
by unanimous consent.

“(e) **REQUIREMENT TO MAKE AVAILABLE FOR OBLI-**
GATION.—Any item of budget authority proposed to be re-
scinded in a special message transmitted to the Congress
in accordance with subsection (a) shall be made available
for obligation unless, not more than 60 days after the
transmittal of the special message, both Houses of the
Congress have agreed to the bill or joint resolution accom-
panying such special message.

“(f) **DEFINITIONS.**—For purposes of this section, the
term—

“(1) ‘item’ means any numerically expressed
amount of budget authority set forth in an appro-
priation bill;

“(2) ‘appropriation bill’ means any general or
special appropriation bill, and any bill or joint reso-
lution making supplemental, deficiency, or continu-
ing appropriations; and

“(3) ‘appropriation Act’ means any appropria-
tion bill that has been approved by the President
and become law.”.

(b) **CONFORMING AMENDMENTS.**—

10

1 (1) Section 1011(5) of the Congressional Budg-
2 et and Impoundment Control Act of 1974 is
3 amended—

4 (A) by striking out “1012, and” and in-
5 serting in lieu thereof “1012, the 20-day peri-
6 ods referred to in paragraphs (1)(B) and (2)(A)
7 of section 1013(c), the 60-day period referred
8 to in section 1013(e) and”;

9 (B) by striking out “1012 during” and in-
10 serting in lieu thereof “1012 or 1013 during”;

11 (C) by striking out “of 45” and inserting
12 in lieu thereof “of the applicable number of”;
13 and

14 (D) by striking out “45-day period re-
15 ferred to in paragraph (3) of this section and
16 in section 1012” and inserting in lieu thereof
17 “period or periods of time applicable under
18 such section”.

19 (2)(A) Section 1011 of such Act is further
20 amended—

21 (i) in paragraph (4) by striking out
22 “1013” and inserting in lieu thereof “1014”;
23 and

24 (ii) in paragraph (5)—

11

1 (I) by striking out “1016” and insert-
2 ing in lieu thereof “1017”; and

3 (II) by striking out “1017(b)(1)” and
4 inserting in lieu thereof “1018(b)(1)”.

5 (B) Section 1012 of such Act is amended—

6 (i) by striking out “1012 or 1013” each
7 place it appears and inserting in lieu thereof
8 “1012, 1013, or 1014”;

9 (ii) in subsection (b)(1) by striking out
10 “1012” and inserting in lieu thereof “1012 or
11 1013”;

12 (iii) in subsection (b)(2) by striking out
13 “1013” and inserting in lieu thereof “1014”;
14 and

15 (iv) in subsection (e)(2)—

16 (I) by striking out “and” at the end
17 of subparagraph (A),

18 (II) by redesignating subparagraph
19 (B) as subparagraph (C),

20 (III) by striking out “1013” in sub-
21 paragraph (C) (as so redesignated), and

22 (IV) by inserting after subparagraph
23 (A) the following new subparagraph:

1 “(B) he has transmitted a special message
2 under section 1013 with respect to a proposed
3 rescission; and”.

4 (C) Section 1015 of such Act is amended by
5 striking out “1012 or 1013” each place it appears
6 and inserting in lieu thereof “1012, 1013, or 1014”.

7 (D) Section 1016 of such Act is amended by
8 striking out “or 1013(b)” and inserting in lieu
9 thereof “, 1013(e), or 1014(b)”.

10 (E) Section 1012(b) of such Act is amended by
11 adding at the end thereof the following new sen-
12 tence: “The preceding sentence shall not apply to
13 any item of budget authority proposed by the Presi-
14 dent to be rescinded under this section that the
15 President has also proposed to rescind under section
16 1013 and with respect to which the 60-day period
17 referred to in subsection (c) of such section has not
18 expired.”.

19 (3) The table of sections for subpart B of title
20 X of the Congressional Budget and Impoundment
21 Control Act of 1974 is amended—

22 (A) by redesignating the items relating to
23 sections 1013 through 1017 as items relating to
24 sections 1014 through 1018; and

1 (B) by inserting after the item relating to
2 section 1012 the following new item:

"Sec. 1013. ~~Expedited~~ consideration of certain proposed rescissions."

3 **SEC. 3. APPLICATION.**

4 The amendments made by this section shall apply to
5 items of budget authority (as defined in subsection (f)(1)
6 of section 1013 of the Congressional Budget and Im-
7 poundment Control Act of 1974, as added by section 2
8 of this Act) provided by appropriation Acts (as defined
9 in subsection (f)(3) of such section) that become law after
10 the date of the enactment of this Act.

103D CONGRESS
1ST SESSION

H. R. 223

To grant the power to the President to reduce budget authority.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 5, 1993

Mr. KASICH introduced the following bill; which was referred jointly to the
Committees on Government Operations and Rules

A BILL

To grant the power to the President to reduce budget
authority.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the "Legislative Line Item
5 Veto Act of 1993".

6 **SEC. 2. ENHANCEMENT OF SPENDING CONTROL BY THE**
7 **PRESIDENT.**

8 The Impoundment Control Act of 1974 is amended
9 by adding at the end the following new title:

2

1 "TITLE XI—LEGISLATIVE LINE ITEM VETO
2 RESCISSION AUTHORITY

3 "PART A—LEGISLATIVE LINE ITEM VETO RESCISSION
4 AUTHORITY

5 "GRANT OF AUTHORITY AND CONDITIONS

6 "SEC. 1101. (a) IN GENERAL.—Notwithstanding the
7 provisions of part B of title X and subject to the provisions
8 of part B of this title, the President may rescind all or
9 part of any budget authority, if the President—

10 "(1) determines that—

11 "(A) such rescission would help balance
12 the Federal budget, reduce the Federal budget
13 deficit, or reduce the public debt;

14 "(B) such rescission will not impair any
15 essential Government functions; and

16 "(C) such rescission will not harm the na-
17 tional interest; and

18 "(2)(A) notifies the Congress of such rescission
19 by a special message not later than 20 calendar days
20 (not including Saturdays, Sundays, or holidays)
21 after the date of enactment of a regular or supple-
22 mental appropriations Act or a joint resolution mak-
23 ing continuing appropriations providing such budget
24 authority; or

3

1 “(B) notifies the Congress of such rescission by
2 special message accompanying the submission of the
3 President’s budget to Congress and such rescissions
4 have not been proposed previously for that fiscal
5 year.

6 The President shall submit a separate rescission message
7 for each appropriations bill under paragraph (2)(A).

8 “(b) RESCISSION EFFECTIVE UNLESS DIS-
9 APPROVED.—(1)(A) Any amount of budget authority re-
10 scinded under this title as set forth in a special message
11 by the President shall be deemed canceled unless during
12 the period described in subparagraph (B) a rescission dis-
13 approval bill making available all of the amount rescinded
14 is enacted into law.

15 “(B) The period referred to in subparagraph (A) is—

16 “(i) a Congressional review period of 20 cal-
17 endar days of session under part B, during which
18 Congress must complete action on the rescission dis-
19 approval bill and present such bill to the President
20 for approval or disapproval;

21 “(ii) after the period provided in clause (i), an
22 additional 10 days (not including Sundays) during
23 which the President may exercise his authority to
24 sign or veto the rescission disapproval bill; and

1 “(iii) if the President vetoes the rescission dis-
2 approval bill during the period provided in clause
3 (ii), an additional 5 calendar days of session after
4 the date of the veto.

5 “(2) If a special message is transmitted by the Presi-
6 dent under this section during any Congress and the last
7 session of such Congress adjourns sine die before the expi-
8 ration of the period described in paragraph (1)(B), the
9 rescission shall not take effect. The message shall be
10 deemed to have been retransmitted on the first day of the
11 succeeding Congress and the review period referred to in
12 paragraph (1)(B) (with respect to such message) shall run
13 beginning after such first day.

14 “DEFINITIONS

15 “SEC. 1102. For purposes of this title the term ‘re-
16 scission disapproval bill’ means a bill or joint resolution
17 which only disapproves a rescission of budget authority,
18 in whole, rescinded in a special message transmitted by
19 the President under section 1101.

20 “PART B—CONGRESSIONAL CONSIDERATION OF
21 LEGISLATIVE LINE ITEM VETO RESCISSIONS

22 “PRESIDENTIAL SPECIAL MESSAGE

23 “SEC. 1111. Whenever the President rescinds any
24 budget authority as provided in section 1101, the Presi-
25 dent shall transmit to both Houses of Congress a special
26 message specifying—

5

1 “(1) the amount of budget authority rescinded;

2 “(2) any account, department, or establishment
3 of the Government to which such budget authority
4 is available for obligation, and the specific project or
5 governmental functions involved;

6 “(3) the reasons and justifications for the de-
7 termination to rescind budget authority pursuant to
8 section 1101(a)(1);

9 “(4) to the maximum extent practicable, the es-
10 timated fiscal, economic, and budgetary effect of the
11 rescission; and

12 “(5) all facts, circumstances, and considerations
13 relating to or bearing upon the rescission and the
14 decision to effect the rescission, and to the maxi-
15 mum extent practicable, the estimated effect of the
16 rescission upon the objects, purposes, and programs
17 for which the budget authority is provided.

18 “TRANSMISSION OF MESSAGES; PUBLICATION

19 “SEC. 1112. (a) DELIVERY TO HOUSE AND SEN-
20 ATE.—Each special message transmitted under sections
21 1101 and 1111 shall be transmitted to the House of Rep-
22 resentatives and the Senate on the same day, and shall
23 be delivered to the Clerk of the House of Representatives
24 if the House is not in session, and to the Secretary of
25 the Senate if the Senate is not in session. Each special
26 message so transmitted shall be referred to the appro-

6

1 puate committees of the House of Representatives and the
2 Senate. Each such message shall be printed as a document
3 of each House.

4 “(b) PRINTING IN FEDERAL REGISTER.—Any special
5 message transmitted under sections 1101 and 1111 shall
6 be printed in the first issue of the Federal Register pub-
7 lished after such transmittal.

8 “PROCEDURE IN SENATE

9 “SEC. 1113. (a) REFERRAL.—(1) Any rescission dis-
10 approval bill introduced with respect to a special message
11 shall be referred to the appropriate committees of the
12 House of Representatives or the Senate, as the case may
13 be.

14 “(2) Any rescission disapproval bill received in the
15 Senate from the House shall be considered in the Senate
16 pursuant to the provisions of this section.

17 “(b) FLOOR CONSIDERATION IN THE SENATE.—

18 “(1) Debate in the Senate on any rescission dis-
19 approval bill and debatable motions and appeals in
20 connection therewith, shall be limited to not more
21 than 10 hours. The time shall be equally divided be-
22 tween, and controlled by, the majority leader and the
23 minority leader or their designees.

24 “(2) Debate in the Senate on any debatable mo-
25 tion or appeal in connection with such a bill shall be
26 limited to 1 hour, to be equally divided between, and

1 controlled by, the mover and the manager of the bill,
2 except that in the event the manager of the bill is
3 in favor of any such motion or appeal, the time in
4 opposition thereto shall be controlled by the minority
5 leader or his designee. Such leaders, or either of
6 them, may, from the time under their control on the
7 passage of the bill, allot additional time to any Sen-
8 ator during the consideration of any debatable mo-
9 tion or appeal.

10 “(3) A motion to further limit debate is not de-
11 batable. A motion to recommit (except a motion to
12 recommit with instructions to report back within a
13 specified number of days, not to exceed 1, not count-
14 ing any day on which the Senate is not in session)
15 is not in order.

16 “(c) POINT OF ORDER.—(1) It shall not be in order
17 in the Senate or the House of Representatives to consider
18 any rescission disapproval bill that relates to any matter
19 other than the rescission of budget authority transmitted
20 by the President under section 1101.

21 “(2) It shall not be in order in the Senate or the
22 House of Representatives to consider any amendment to
23 a rescission disapproval bill.

8

1 “(3) Paragraphs (1) and (2) may be waived or sus-
2 pended in the Senate only by a vote of three-fifths of the
3 members duly chosen and sworn.”.

4 **SEC. 3. EFFECTIVE DATE.**

5 The amendment made by section 2 shall be applicable
6 only during the One Hundred Third Congress.

By Mr. KASICH:

H.R. 223. A bill to grant the power to the President to reduce budget authority; jointly, to the Committees on Government Operations and Rules.

103D CONGRESS
1ST SESSION

H. R. 354

To amend the Congressional Budget and Impoundment Control Act of 1974 to provide for the expedited consideration of certain proposed rescissions of budget authority.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 5, 1993

Mr. SLATTERY introduced the following bill; which was referred jointly to the Committees on Government Operations and Rules

A BILL

To amend the Congressional Budget and Impoundment Control Act of 1974 to provide for the expedited consideration of certain proposed rescissions of budget authority.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the "Expedited Consider-
5 ation of Proposed Rescissions Act of 1993".

6 **SEC. 2. EXPEDITED CONSIDERATION OF CERTAIN PRO-**
7 **POSED RESCISSIONS.**

8 (a) IN GENERAL.—Part B of title X of the Congres-
9 sional Budget and Impoundment Control Act of 1974 (2

1 U.S.C. 681 et seq.) is amended by redesignating sections
2 1013 through 1017 as sections 1014 through 1018, re
3 spectively, and inserting after section 1012 the following
4 new section:

5 "EXPEDITED CONSIDERATION OF CERTAIN PROPOSED
6 RESCISSIONS

7 "SEC. 1013. (a) PROPOSED RESCISSION OF BUDGET
8 AUTHORITY.—In addition to the method of rescinding
9 budget authority specified in section 1012, the President
10 may propose, at the time and in the manner provided in
11 subsection (b), the rescission of any budget authority pro-
12 vided in an appropriations Act. Funds made available for
13 obligation under this procedure may not be proposed for
14 rescission again under this section or section 1012.

15 "(b) TRANSMITTAL OF SPECIAL MESSAGE.—

16 "(1) Not later than 3 days after the date of en-
17 actment of an appropriation Act, the President may
18 transmit to Congress a special message proposing to
19 rescind amounts of budget authority provided in
20 that Act and include with that special message a
21 draft bill or joint resolution that, if enacted, would
22 only rescind that budget authority.

23 "(2) In the case of an appropriation Act that
24 includes accounts within the jurisdiction of more
25 than one subcommittee of the Committee on Approp-
26 riations the President in proposing to rescind

1 budget authority under this section shall send a sep-
2 arate special message and accompanying draft bill or
3 joint resolution for accounts within the jurisdiction
4 of each such subcommittee.

5 “(3) Each special message shall specify, with
6 respect to the budget authority proposed to be re-
7 scinded, the matters referred to in paragraphs (1)
8 through (5) of section 1012(a).

9 “(c) LIMITATION ON AMOUNTS SUBJECT TO RESCIS-
10 SION.—

11 “(1) The amount of budget authority which the
12 President may propose to rescind in a special mes-
13 sage under this section for a particular program,
14 project, or activity for a fiscal year may not exceed
15 25 percent of the amount appropriated for that pro-
16 gram, project, or activity in that Act.

17 “(2) The limitation contained in paragraph (1)
18 shall only apply to a program, project, or activity
19 that is authorized by law.

20 “(d) PROCEDURES FOR EXPEDITED CONSIDER-
21 ATION.—

22 “(1)(A) Before the close of the second day of
23 continuous session of the applicable House after the
24 date of receipt of a special message transmitted to
25 Congress under subsection (b), the majority leader

1 or minority leader of the House of Congress in
2 which the appropriation Act involved originated shall
3 introduce (by request) the draft bill or joint resolu-
4 tion accompanying that special message. If the bill
5 or joint resolution is not introduced as provided in
6 the preceding sentence, then, on the third day of
7 continuous session of that House after the date of
8 receipt of that special message, any Member of that
9 House may introduce the bill or joint resolution.

10 “(B) The bill or joint resolution shall be re-
11 ferred to the Committee on Appropriations of that
12 House. The committee shall report the bill or joint
13 resolution without substantive revision and with or
14 without recommendation. The bill or joint resolution
15 shall be reported not later than the seventh day of
16 continuous session of that House after the date of
17 receipt of that special message. If the Committee on
18 Appropriations fails to report the bill or joint resolu-
19 tion within that period, that committee shall be
20 automatically discharged from consideration of the
21 bill or joint resolution, and the bill or joint resolu-
22 tion shall be placed on the appropriate calendar.

23 “(C) A vote on final passage of the bill or joint
24 resolution shall be taken in that House on or before
25 the close of the 10th calendar day of continuous ses-

1 sion of that House after the date of the introduction
2 of the bill or joint resolution in that House. If the
3 bill or joint resolution is agreed to, the Clerk of the
4 House of Representatives (in the case of a bill or
5 joint resolution agreed to in the House of Represent-
6 atives) or the Secretary of the Senate (in the case
7 of a bill or joint resolution agreed to in the Senate)
8 shall cause the bill or joint resolution to be en-
9 grossed, certified, and transmitted to the other
10 House of Congress on the same calendar day on
11 which the bill or joint resolution is agreed to.

12 “(2)(A) A bill or joint resolution transmitted to
13 the House of Representatives or the Senate pursu-
14 ant to paragraph (1)(C) shall be referred to the
15 Committee on Appropriations of that House. The
16 committee shall report the bill or joint resolution
17 without substantive revision and with or without rec-
18 ommendation. The bill or joint resolution shall be re-
19 ported not later than the seventh day of continuous
20 session of that House after it receives the bill or
21 joint resolution. A committee failing to report the
22 bill or joint resolution within such period shall be
23 automatically discharged from consideration of the
24 bill or joint resolution, and the bill or joint resolu-
25 tion shall be placed upon the appropriate calendar.

1 “(B) A vote on final passage of a bill or joint
2 resolution transmitted to that House shall be taken
3 on or before the close of the 10th calendar day of
4 continuous session of that House after the date on
5 which the bill or joint resolution is transmitted. If
6 the bill or joint resolution is agreed to in that
7 House, the Clerk of the House of Representatives
8 (in the case of a bill or joint resolution agreed to in
9 the House of Representatives) or the Secretary of
10 the Senate (in the case of a bill or joint resolution
11 agreed to in the Senate) shall cause the engrossed
12 bill or joint resolution to be returned to the House
13 in which the bill or joint resolution originated.

14 “(3)(A) A motion in the House of Representa-
15 tives to proceed to the consideration of a bill or joint
16 resolution under this section shall be highly privi-
17 leged and not debatable. An amendment to the mo-
18 tion shall not be in order, nor shall it be in order
19 to move to reconsider the vote by which the motion
20 is agreed to or disagreed to.

21 “(B) Debate in the House of Representatives
22 on a bill or joint resolution under this section shall
23 not exceed 4 hours, which shall be divided equally
24 between those favoring and those opposing the bill
25 or joint resolution. A motion further to limit debate

1 shall not be debatable. It shall not be in order to
2 move to recommit a bill or joint resolution under
3 this section or to move to reconsider the vote by
4 which the bill or joint resolution is agreed to or dis-
5 agreed to.

6 “(C) Appeals from decisions of the Chair relat-
7 ing to the application of the Rules of the House of
8 Representatives to the procedure relating to a bill or
9 joint resolution under this section shall be decided
10 without debate.

11 “(D) Except to the extent specifically provided
12 in the preceding provisions of this subsection, con-
13 sideration of a bill or joint resolution under this sec-
14 tion shall be governed by the Rules of the House of
15 Representatives.

16 “(4)(A) A motion in the Senate to proceed to
17 the consideration of a bill or joint resolution under
18 this section shall be privileged and not debatable. An
19 amendment to the motion shall not be in order, nor
20 shall it be in order to move to reconsider the vote
21 by which the motion is agreed to or disagreed to.

22 “(B) Debate in the Senate on a bill or joint res-
23 olution under this section, and all debatable motions
24 and appeals in connection therewith, shall not exceed
25 10 hours. The time shall be equally divided between,

1 and controlled by, the majority leader and the mi-
2 nority leader or their designees.

3 “(C) Debate in the Senate on any debatable
4 motion or appeal in connection with a bill or joint
5 resolution under this section shall be limited to not
6 more than 1 hour, to be equally divided between,
7 and controlled by, the mover and the manager of the
8 bill or joint resolution, except that in the event the
9 manager of the bill or joint resolution is in favor of
10 any such motion or appeal, the time in opposition
11 thereto, shall be controlled by the minority leader or
12 his designee. Such leaders, or either of them, may,
13 from time under their control on the passage of a
14 bill or joint resolution, allot additional time to any
15 Senator during the consideration of any debatable
16 motion or appeal.

17 “(D) A motion in the Senate to further limit
18 debate on a bill or joint resolution under this section
19 is not debatable. A motion to recommit a bill or joint
20 resolution under this section is not in order.

21 “(e) AMENDMENTS PROHIBITED.—No amendment to
22 a bill or joint resolution considered under this section shall
23 be in order in either the House of Representatives or the
24 Senate. No motion to suspend the application of this sub-
25 section shall be in order in either House, nor shall it be

1 in order in either House to suspend the application of this
2 subsection by unanimous consent.

3 “(f) REQUIREMENT TO MAKE AVAILABLE FOR OBLI-
4 GATION.—Any amount of budget authority proposed to be
5 rescinded in a special message transmitted to Congress
6 under subsection (b) shall be made available for obligation
7 on the day after the date on which either House defeats
8 the bill or joint resolution transmitted with that special
9 message.

10 “(g) DEFINITIONS.—For purposes of this section—

11 “(1) the term ‘appropriation Act’ means any
12 general or special appropriation Act, and any Act or
13 joint resolution making supplemental, deficiency, or
14 continuing appropriations; and

15 “(2) continuity of a session of either House of
16 Congress shall be considered as broken only by an
17 adjournment of that House sine die, and the days on
18 which that House is not in session because of an ad-
19 journment of more than 3 days to a date certain
20 shall be excluded in the computation of any period.”.

21 (b) EXERCISE OF RULEMAKING POWERS.—Section
22 904 of such Act (2 U.S.C. 621 note) is amended—

23 (1) by striking “and 1017” in subsection (a)
24 and inserting “1013, and 1018”; and

10

1 (2) by striking “section 1017” in subsection (d)
2 and inserting “sections 1013 and 1018”; and

3 (c) **CONFORMING AMENDMENTS.**—

4 (1) Section 1011 of such Act (2 U.S.C. 682(5))
5 is amended—

6 (A) in paragraph (4), by striking “1013”
7 and inserting “1014”; and

8 (B) in paragraph (5)—

9 (i) by striking “1016” and inserting
10 “1017”; and

11 (ii) by striking “1017(b)(1)” and in-
12 serting “1018(b)(1)”.

13 (2) Section 1015 of such Act (2 U.S.C. 685)
14 (as redesignated by section 2(a)) is amended—

15 (A) by striking “1012 or 1013” each place
16 it appears and inserting “1012, 1013, or
17 1014”;

18 (B) in subsection (b)(1), by striking
19 “1012” and inserting “1012 or 1013”;

20 (C) in subsection (b)(2), by striking
21 “1013” and inserting “1014”; and

22 (D) in subsection (e)(2)—

23 (i) by striking “and” at the end of
24 subparagraph (A);

11

1 (ii) by redesignating subparagraph
2 (B) as subparagraph (C);

3 (iii) by striking "1013" in subpara-
4 graph (C) (as so redesignated) and insert-
5 ing "1014"; and

6 (iv) by inserting after subparagraph
7 (A) the following new subparagraph:

8 "(B) he has transmitted a special message
9 under section 1013 with respect to a proposed
10 rescission; and".

11 (3) Section 1016 of such Act (2 U.S.C. 686)
12 (as redesignated by section 2(a)) is amended by
13 striking "1012 or 1013" each place it appears and
14 inserting "1012, 1013, or 1014".

15 (d) CLERICAL AMENDMENTS.—The table of sections
16 for subpart B of title X of such Act is amended—

17 (1) by redesignating the items relating to sec-
18 tions 1013 through 1017 as items relating to sec-
19 tions 1014 through 1018; and

20 (2) by inserting after the item relating to sec-
21 tion 1012 the following new item:

"Sec. 1013. Expedited consideration of certain proposed rescissions."

22 **SEC. 3. APPLICATION.**

23 Section 1013 of the Congressional Budget and Im-
24 poundment Control Act of 1974 (as added by section 2)
25 shall apply to amounts of budget authority provided by

1 appropriation Acts (as defined in subsection (g) of such
2 section) that are enacted during the One Hundred Third
3 Congress.

4 **SEC. 4. TERMINATION.**

5 The authority provided by section 1013 of the Con-
6 gressional Budget and Impoundment Control Act of 1974
7 (as added by section 2) shall terminate effective on the
8 date in 1994 on which Congress adjourns sine die.

By Mr. SLATTERY:

H.R. 354. A bill to amend the Congressional Budget and Impoundment Control Act of 1974 to provide for the expedited consideration of certain proposed rescissions of budget authority; jointly, to the Committee on Government Operations and Rules.

January 20, 1993

[From the Congressional Record page H119]

I

103D CONGRESS
1ST SESSION

H. R. 493

To give the President legislative, line-item veto rescission authority over appropriation bills and targeted tax benefits in revenue bills.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 20, 1993

Mr. MICHEL introduced the following bill; which was referred jointly to the Committees on Government Operations and Rules

A BILL

To give the President legislative, line-item veto rescission authority over appropriation bills and targeted tax benefits in revenue bills.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the "The Enhanced Rescis-
5 sion/Receipts Act of 1993".

6 **SEC. 2. LEGISLATIVE LINE ITEM VETO RESCISSION AU-**
7 **THORITY.**

8 (a) IN GENERAL.—Notwithstanding the provisions of
9 part B of title X of The Congressional Budget and Im-
10 poundment Control Act of 1974, and subject to the provi-

1 sions of this section, the President may rescind all or part
2 of any discretionary budget authority or veto any targeted
3 tax benefit within any revenue bill which is subject to the
4 terms of this Act if the President—

5 (1) determines that—

6 (A) such rescission or veto would help re-
7 duce the Federal budget deficit;

8 (B) such rescission or veto will not impair
9 any essential Government functions; and

10 (C) such rescission or veto will not harm
11 the national interest; and

12 (2) notifies the Congress of such rescission or
13 veto by a special message not later than twenty cal-
14 endar days (not including Saturdays, Sundays, or
15 holidays) after the date of enactment of a regular or
16 supplemental appropriation act or a joint resolution
17 making continuing appropriations providing such
18 budget authority or a revenue bill containing a tar-
19 geted tax benefit.

20 The President shall submit a separate rescission message
21 for each appropriation bill and for each revenue bill under
22 this paragraph.

23 **SEC. 3. RESCISSION EFFECTIVE UNLESS DISAPPROVED.**

24 (a)(1) Any amount of budget authority rescinded
25 under this Act as set forth in a special message by the

1 President shall be deemed canceled unless, during the pe-
2 riod described in subsection (b), a rescission/receipts dis-
3 approval bill making available all of the amount rescinded
4 is enacted into law.

5 (2) Any provision of law vetoed under this Act as set
6 forth in a special message by the President shall be
7 deemed repealed unless, during the period described in
8 subsection (b), a rescission/receipts disapproval bill restor-
9 ing that provision is enacted into law.

10 (b) The period referred to in subsection (a) is—

11 (1) a congressional review period of twenty cal-
12 endar days of session during which Congress must
13 complete action on the rescission/receipts disapproval
14 bill and present such bill to the President for ap-
15 proval or disapproval;

16 (2) after the period provided in paragraph (1),
17 an additional ten days (not including Sundays) dur-
18 ing which the President may exercise his authority
19 to sign or veto the rescission/receipts disapproval
20 bill; and

21 (3) if the President vetoes the rescission/re-
22 cepts disapproval bill during the period provided in
23 paragraph (2), an additional five calendar days of
24 session after the date of the veto.

1 (c) If a special message is transmitted by the Presi-
2 dent under this Act and the last session of the Congress
3 adjourns sine die before the expiration of the period de-
4 scribed in subsection (b), the rescission or veto, as the case
5 may be, shall not take effect. The message shall be deemed
6 to have been retransmitted on the first day of the succeed-
7 ing Congress and the review period referred to in sub-
8 section (b) (with respect to such message) shall run begin-
9 ning after such first day.

10 **SEC. 4. DEFINITIONS.**

11 As used in this Act:

12 (1) The term “rescission/receipts disapproval
13 bill” means a bill or joint resolution which—

14 (A) only disapproves a rescission of budget
15 authority, in whole, rescinded, or

16 (B) only disapproves a veto of any provi-
17 sion of law that would decrease receipts,
18 in a special message transmitted by the President
19 under this Act.

20 (2) The term “calendar days of session” shall
21 mean only those days on which both Houses of Con-
22 gress are in session.

23 (3) The term “targeted tax benefit” means any
24 provision which has the practical effect of providing
25 a benefit in the form of a differential treatment to

1 a particular taxpayer or a limited class of taxpayers,
2 whether or not such provision is limited by its terms
3 to a particular taxpayer or a class of taxpayers.
4 Such term does not include any benefit provided to
5 a class of taxpayers distinguished on the basis of
6 general demographic conditions such as income,
7 number of dependents, or marital status.

8 **SEC. 5. CONGRESSIONAL CONSIDERATION OF LEGISLATIVE**
9 **LINE ITEM VETO RESCISSIONS.**

10 (a) **PRESIDENTIAL SPECIAL MESSAGE.**—Whenever
11 the President rescinds any budget authority as provided
12 in this Act or vetoes any provision of law as provided in
13 this Act, the President shall transmit to both Houses of
14 Congress a special message specifying—

15 (1) the amount of budget authority rescinded or
16 the provision vetoed;

17 (2) any account, department, or establishment
18 of the Government to which such budget authority
19 is available for obligation, and the specific project or
20 governmental functions involved;

21 (3) the reasons and justifications for the deter-
22 mination to rescind budget authority or veto any
23 provision pursuant to this Act;

1 (4) to the maximum extent practicable, the esti-
2 mated fiscal, economic, and budgetary effect of the
3 rescission or veto; and

4 (5) all factions, circumstances, and consider-
5 ations relating to or bearing upon the rescission or
6 veto and the decision to effect the rescission or veto,
7 and to the maximum extent practicable, the esti-
8 mated effect of the rescission upon the objects, pur-
9 poses, and programs for which the budget authority
10 is provided.

11 (b) TRANSMISSION OF MESSAGES TO HOUSE AND
12 SENATE.—

13 (1) Each special message transmitted under
14 this Act shall be transmitted to the House of Rep-
15 resentatives and the Senate on the same day, and
16 shall be delivered to the Clerk of the House of Rep-
17 resentatives if the House is not in session, and to
18 the Secretary of the Senate if the Senate is not in
19 session. Each special message so transmitted shall
20 be referred to the appropriate committees of the
21 House of Representatives and the Senate. Each such
22 message shall be printed as a document of each
23 House.

1 (2) Any special message transmitted under this
2 Act shall be printed in the first issue of the Federal
3 Register published after such transmittal.

4 (c) REFERRAL OF RESCISSION/RECEIPTS DIS-
5 APPROVAL BILLS.—Any rescission/receipts disapproval
6 bill introduced with respect to a special message shall be
7 referred to the appropriate committees of the House of
8 Representatives or the Senate, as the case may be.

9 (d) CONSIDERATION IN THE SENATE.—

10 (1) Any rescission/receipts disapproval bill re-
11 ceived in the Senate from the House shall be consid-
12 ered in the Senate pursuant to the provisions of this
13 Act.

14 (2) Debate in the Senate on any rescission/re-
15 ceipts disapproval bill and debatable motions and ap-
16 peals in connection therewith, shall be limited to not
17 more than ten hours. The time shall be equally di-
18 vided between, and controlled by, the majority leader
19 and the minority leader or their designees.

20 (3) Debate in the Senate on any debatable mo-
21 tions or appeal in connection with such bill shall be
22 limited to one hour, to be equally divided between,
23 and controlled by the mover and the manager of the
24 bill, except that in the event the manager of the bill
25 is in favor of any such motion or appeal, the time

1 in opposition thereto shall be controlled by the mi-
2 nority leader or his designee. Such leaders, or either
3 of them, may, from the time under their control on
4 the passage of the bill, allot additional time to any
5 Senator during the consideration of any debatable
6 motion or appeal.

7 (4) A motion to further limit debate is not de-
8 batable. A motion to recommit (except a motion to
9 recommit with instructions to report back within a
10 specified number of days not to exceed one, not
11 counting any day on which the Senate is not in ses-
12 sion) is not in order.

13 (e) POINTS OF ORDER.—

14 (1) It shall not be in order in the Senate or the
15 House of Representatives to consider any rescission/
16 receipts disapproval bill that relates to any matter
17 other than the rescission of budget authority or veto
18 of the provision of law transmitted by the President
19 under this Act.

20 (2) It shall not be in order in the Senate or the
21 House of Representatives to consider any amend-
22 ment to a rescission/receipts disapproval bill.

23 (3) Paragraphs (1) and (2) may be waived or
24 suspended in the Senate only by a vote of three
25 fifths of the members duly chosen and sworn

By Mr. MICHEL:

H.R. 493. A bill to give the President legislative, line-item veto rescission authority over appropriation bills and targeted tax benefits in revenue bills; jointly, to the Committee on Government Operations and Rules.

[From the Congressional Record pages E114-115]

INTRODUCTION OF THE ENHANCED RESCISSION/RECEIPTS ACT OF 1993

HON. ROBERT H. MICHEL

OF ILLINOIS

Mr. MICHEL. Mr. Speaker, today I am introducing legislation which builds on the legislative line-item veto proposal that has already been introduced by Congressman SOLOMON. My proposal would broaden the focus of the legislative line-item veto to encompass both pork-barrel spending items in appropriations and special tax provisions in revenue bills.

Under this bill the President could rescind all or any part of any discretionary budget authority in appropriations bills or veto any targeted tax benefit within a revenue bill. Congress would then have 20 days after the submission of a rescission or veto proposal in which to enact a rescission/receipts disapproval bill by majority vote of both Houses.

I believe that it is important that the President be able to single out both pork-barrel spending and special tax provisions for an individual vote. Often such provisions are buried in large bills and Members may not even be aware of all of these individual provisions tucked away in an omnibus bill.

As an example, H.R. 11, the Revenue Act of 1992, contained over 50 special tax provisions that totaled \$2.5 billion in cost over a 5-year period. H.R. 11 was Congress' response to the Los Angeles riots last spring. The supposed cornerstone of the legislation was the enterprise zone provisions. I was surprised to learn that the 5-year, \$2.4 billion cost of the enterprise zone provisions was less than the total for the special tax provisions within that bill. There should be a way for the President to get at such targeted tax benefits providing special treatment to a particular taxpayer or limited class of taxpayers which are buried in massive revenue bills.

I urge my colleagues to review this legislation, a copy of which is printed below, and join me in the effort to provide the President with a legislative line-item veto.

January 25, 1993

[From the Congressional Record page H218]

I

103D CONGRESS
1ST SESSION

H. R. 565

To amend the Congressional Budget Act of 1974 to reform the Federal budget process, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 25, 1993

Mr. KOLBE introduced the following bill; which was referred to the Committee on Government Operations and Rules

A BILL

To amend the Congressional Budget Act of 1974 to reform the Federal budget process, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. AMENDMENTS TO CONGRESSIONAL BUDGET**
4 **ACT OF 1974.**

5 Except as otherwise expressly provided, whenever any
6 provision of this Act is expressed as an amendment to a
7 section or other provision, the reference shall be deemed
8 to be made to a section or other provision of the Congres-
9 sional Budget Act of 1974.

TITLE I—BIENNIAL BUDGET CYCLE

SEC. 101. BIENNIAL CONGRESSIONAL BUDGETS.

(a) REVISION OF TIMETABLE.—Section 300 is amended to read as follows:

“TIMETABLE

“SEC. 300. The timetable with respect to the Congressional budget process for any Congress (beginning with the One Hundred Fourth Congress) is as follows:

“First Session

“On or before:

Action to be completed:

First Monday in February	President submits budget recommendations.
February 15	Congressional Budget Office submits reports to Budget Committees.
March 15	Committees submit views and estimates to Budget Committees.
April 15	Joint Budget Committee reports resolution on the biennial budget.
May 15	Congress completes action on resolution on the biennial budget or automatic budget resolution takes effect.
	Annual appropriation bills may be considered.
June 10	House Appropriations Committee reports last annual appropriation bill.
September 30	Congress completes action on reconciliation legislation.
	Congress completes action on annual appropriations bills.
October 1	Biennium begins.

“Second Session

“On or before:

Action to be completed:

Fifteenth day after the session begins.	President submits budget revisions.
February 15	Congressional Budget Office submits report to Budget Committee.
June 10	House Appropriations Committee reports last annual appropriation bill.
September 30	Congress completes action on annual appropriation bills.”.

3

1 (b) AMENDMENTS IMPLEMENTING BIENNIAL CON-
2 GRESSIONAL BUDGETING.—

3 (1) DECLARATION OF PURPOSE.—Section 2(2)
4 is amended by striking “each year” and inserting
5 “biennially”.

6 (2) DEFINITIONS.—(A) Paragraph (4) of sec-
7 tion 3 is amended by striking “fiscal year” each
8 place it appears and inserting “a biennium”.

9 (B) Section 3 is further amended by adding at
10 the end the following new paragraph:

11 “(11) The term ‘biennium’ means the period of
12 2 consecutive fiscal years beginning on October 1 of
13 any odd-numbered year.”.

14 (3) DUTIES OF CBO.—(A) Section 202(f)(1) is
15 amended—

16 (i) by striking “February 15 of each year”
17 and inserting “February 15 of each odd-num-
18 bered calendar year”;

19 (ii) by striking “the fiscal year commenc-
20 ing” and inserting “each fiscal year in the bien-
21 nium commencing”;

22 (iii) by striking “such fiscal year” the first
23 place it appears and inserting “such biennium”;
24 and

(iv) by striking “such fiscal year” the second place it appears and inserting “each fiscal year in such biennium”;

(B) Section 202(f) is further amended—

(i) in paragraph (2) by striking “paragraph (1)” and inserting “paragraphs (1) and (2)”;

(ii) in paragraph (3)—

(I) by striking “each year” and inserting “each even-numbered calendar year”,

(II) by striking “the fiscal year ending September 30 of that calendar year” in clause (A) and inserting “either fiscal year in the biennium beginning October 1 of the preceding calendar year”,

(III) by striking “the fiscal year ending September 30 of that calendar year” in clause (B) and inserting “either fiscal year of such biennium”, and

(IV) by striking “fiscal year beginning October 1 of that calendar year” and inserting “succeeding biennium”;

(iii) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4) respectively; and

1 (iv) by inserting after paragraph (1) the
2 following new paragraph:

3 “(2) On February 15 of each even-numbered
4 year, the Director shall transmit to the Committee
5 on the Budget of the House of Representatives and
6 the Senate such revisions of the report required by
7 paragraph (1) as may be necessary due to changing
8 economic conditions and due to any budget revisions
9 transmitted by the President pursuant to subsection
10 (b) of section 1106 of title 31, United States Code.”.

11 (4) BIENNIAL CONCURRENT RESOLUTION ON
12 THE BUDGET.—(A) Section 301(a) is amended—

13 (i) by striking “April 15 of each year” and
14 inserting “May 15 of each odd-numbered year”;

15 (ii) by striking “the fiscal year beginning
16 on October 1 of such year” the first place it ap-
17 pears and inserting “biennium beginning on Oc-
18 tober 1 of such year”;

19 (iii) by striking “the fiscal year beginning
20 on October 1 of such year” the second place it
21 appears and inserting “each fiscal year in such
22 period”; and

23 (iv) by striking “each of the two ensuing
24 fiscal years” and inserting “each fiscal year in
25 the succeeding biennium”.

6

1 (B) Section 301(b) is amended—

2 (i) in the matter preceding paragraph (1)
3 by inserting “for a biennium” after “resolution
4 on the budget”;

5 (ii) in paragraph (3) by striking “for such
6 fiscal year” and inserting “for either fiscal year
7 in such biennium”; and

8 (iii) by adding at the end the following:

9 “All matters and procedures set forth pursuant to para-
10 graph (4) shall remain in effect only for the biennium be-
11 ginning on October 1 of such fiscal year.”.

12 (C) The first sentence of section 301(d) is
13 amended by inserting “odd-numbered” before
14 “year”.

15 (D) Section 301(e) is amended—

16 (i) in the first sentence by striking “fiscal
17 year” and inserting “biennium”;

18 (ii) by inserting between the second and
19 third sentences the following new sentence: “On
20 or before April 15 of each odd-numbered year
21 the Committee on the Budget shall report to its
22 House the concurrent resolution on the budget
23 referred to in subsection (a) for the biennium
24 beginning on October 1 of that year.”; and

25 (iii) in paragraph (6)—

7

1 (I) by striking “five” and inserting
2 “four”,

3 (II) by striking “such fiscal year” and
4 inserting “the first fiscal year of such bien-
5 nium,”,
6 four-fiscal-year period”.

7 (E) Section 301(f) is amended by striking “fis-
8 cal year” each place it appears and inserting “bien-
9 nium”.

10 (F) Section 301(i)(1)(A) is amended—

11 (i) by striking “for a fiscal year” and in-
12 serting “for a biennium”;

13 (ii) by striking “for such fiscal year” the
14 first place it appears and inserting “for either
15 fiscal year in such biennium”.

16 (G) The section heading of section 301 is
17 amended by striking “ANNUAL ADOPTION” and in-
18 serting “BIENNIAL ADOPTION”.

19 (H) The table of contents set forth in section
20 1(b) of the Congressional Budget and Impoundment
21 Control Act of 1974 is amended by striking “Annual
22 Adoption” in the item relating to section 301 and
23 inserting “Biennial Adoption”.

24 (5) SECTION 303 POINT OF ORDER.—(A) Sec-
25 tion 303(a) is amended by striking “for such fiscal

1 year” and inserting “for the biennium including
2 such fiscal year”.

3 (B) Section 303(b) of such Act (2 U.S.C.
4 634(b)) is amended—

5 (i) by striking “fiscal year” each place it
6 appears and inserting “biennium”;

7 (ii) in paragraph (1)(A), by inserting be-
8 fore the semicolon “, if such bill or resolution
9 does not cause the level of entitlement and
10 mandatory spending to be exceeded for the two
11 fiscal years following the biennium to which the
12 concurrent resolution applies”; and

13 (iii) in the matter following paragraph (2),
14 by striking “any calendar year” and inserting
15 “any odd-numbered calendar year” and by
16 striking “in the House of Representatives”.

17 (6) PERMISSIBLE REVISIONS OF CONCURRENT
18 RESOLUTIONS ON THE BUDGET.—(1) Section 304(a)
19 is amended—

20 (A) by striking “fiscal year” the first two
21 places it appears and inserting “biennium”;

22 (B) by striking “for such fiscal year”; and

23 (C) by inserting before the period “for
24 such biennium”.

1 (7) PROCEDURES FOR CONSIDERATION OF
2 BUDGET RESOLUTIONS.—Section 305 is amended—

3 (A) in subsection (a)(3) by striking “for a
4 fiscal year”; and

5 (B) in subsection (b)(3) by striking “for a
6 fiscal year”.

7 (8) REPORTS AND SUMMARIES OF CONGRES-
8 SIONAL BUDGET ACTIONS.—(A)(i) Section 308(a)(1)
9 is amended—

10 (I) in the matter preceding subparagraph
11 (A) by striking “fiscal year (or fiscal years)”
12 and inserting “biennium (or bienniums)”,

13 (II) in subparagraph (A) by striking “fis-
14 cal year (or fiscal years)” and inserting “bien-
15 nium (or bienniums)”, and

16 (III) in subparagraph (C) by striking
17 “such fiscal year (or fiscal years)” and insert-
18 ing “such biennium (or bienniums)”.

19 (ii) Section 308(a)(2) by striking “fiscal year
20 (or fiscal years)” and inserting “biennium (or
21 bienniums)”.

22 (B) Section 308(b)(1) is amended—

23 (i) by striking “fiscal year” the first place
24 it appears and inserting “biennium”;

10

1 (ii) by inserting “for such biennium” after
2 “concurrent resolution on the budget”; and

3 (iii) by striking “the fiscal year preceding
4 such fiscal year” and inserting “each fiscal year
5 in the biennium preceding such biennium”.

6 (C) Section 308(c) is amended—

7 (i) by striking “Five” in the subsection
8 heading and inserting “Four”;

9 (ii) by striking “fiscal year” each place it
10 appears in the matter preceding paragraph (1)
11 and inserting “biennium”; and

12 (iii) by striking “5 fiscal years” and insert-
13 ing “4 fiscal years”.

14 (9) RECONCILIATION PROCESS.—(A) Section
15 310(a) is amended—

16 (i) by striking “any fiscal year” in the
17 matter preceding paragraph (1) and inserting
18 “any biennium”;

19 (ii) in paragraph (1) by striking “such fis-
20 cal year” each place it appears and inserting
21 “each fiscal year in such biennium”; and

22 (iii) in paragraph (2) by inserting “for
23 each fiscal year in such biennium” after “reve-
24 nues”.

25 (B) Section 310(f) is amended—

11

1 (i) by inserting “of any odd-numbered cal-
2 endar year” after “July”,

3 (ii) by striking “fiscal year beginning on
4 October 1 of the calendar year to which the ad-
5 journment resolution pertains” and inserting
6 “biennium beginning on October 1 of such cal-
7 endar year”, and

8 (iii) by striking “for such fiscal year” and
9 inserting “for such biennium”.

10 (10) SECTION 311 POINT OF ORDER.—Section
11 311(a)(1) is amended by striking “fiscal year” each
12 place it appears and inserting “biennium”.

13 (11) BILLS PROVIDING NEW SPENDING AU-
14 THORITY.—Section 401(b)(2) is amended by striking
15 “for such fiscal year” the second place it appears
16 and inserting “for the biennium in which such fiscal
17 year occurs”.

18 (12) ANALYSIS BY CBO.—Section 403(a) is
19 amended—

20 (A) by striking “the fiscal year” in para-
21 graph (1) and inserting “each fiscal year in the
22 biennium”;

23 (B) by striking “4 fiscal years following
24 such year” in paragraph (1) and inserting
25 “each fiscal year in the succeeding biennium”;

1 (C) by striking "the fiscal year" in para-
2 graph (2) and inserting "each fiscal year in the
3 biennium"; and

4 (D) by striking "four fiscal years following
5 such fiscal year" in paragraph (2) and inserting
6 "each fiscal year in the succeeding biennium".

7 (c) AMENDMENTS TO THE RULES OF THE HOUSE OF
8 REPRESENTATIVES.—

9 (1) Clause 4(a)(1)(A) of rule X of the Rules of
10 the House of Representatives is amended by insert-
11 ing "odd-numbered" after "each".

12 (2) Clause 4(a)(2) of rule X of the Rules of the
13 House of Representatives is amended by striking
14 "such fiscal year" and inserting "the biennium in
15 which such fiscal year begins".

16 (3) Clause 4(b)(2) of rule X of the Rules of the
17 House of Representatives is amended by striking
18 "concurrent resolutions on the budget for each fiscal
19 year" and inserting "concurrent resolution on the
20 budget required under section 301(a) of the Con-
21 gressional Budget Act of 1974 for each biennium".

22 (4) Clause 4(f) of rule X of the Rules of the
23 House of Representatives is amended by striking
24 "annually" each place it appears and inserting
25 "biennially".

1 (5) Clause 4(g) of rule X of the Rules of the
2 House of Representatives is amended—

3 (A) by striking “February 25 of each
4 year” and inserting “March 15 of each odd-
5 numbered year”;

6 (B) by striking “fiscal year” the first place
7 it appears and inserting “biennium”; and

8 (C) by striking “that fiscal year” and in-
9 serting “each fiscal year in such ensuing bien-
10 nium”.

11 (6) Clause 4(h) of rule X of the Rules of the
12 House of Representatives is amended by striking
13 “fiscal year” and inserting “biennium”.

14 (7) Clause 4(a) of rule XI of the Rules of the
15 House of Representatives is amended by striking
16 “fiscal year if reported after September 15 preceding
17 the beginning of such fiscal year” and inserting “bi-
18 ennium if reported after August 1 of the year in
19 which such biennium begins”.

20 (8) Clause 2 of rule XLIX of the Rules of the
21 House of Representatives is amended by striking
22 “fiscal year” and inserting “biennium”.

1 **SEC. 102. AMENDMENTS TO TITLE 31, UNITED STATES**
2 **CODE.**

3 (a) **DEFINITION.**—Section 1101 of title 31, United
4 States Code, is amended by adding at the end the follow-
5 ing new paragraph:

6 “(3) ‘biennium’ has the meaning given to such
7 term in paragraph (11) of section 3 of the Congres-
8 sional Budget and Impoundment Control Act of
9 1974 (2 U.S.C. 622(11))”.

10 (b) **BUDGET AND APPROPRIATIONS AUTHORITY OF**
11 **THE PRESIDENT.**—Section 1104(c) of title 31, United
12 States Code, is amended—

13 (1) by inserting “(1)” after “(c)”;

14 (2) by striking the second sentence; and

15 (3) by adding at the end the following new
16 paragraph:

17 “(2) The budget submitted pursuant to section 1105
18 for the biennium beginning on October 1, 1995, and the
19 estimates of outlays and proposed budget authority re-
20 quired to be submitted under section 1109 for such bien-
21 nium, shall be set forth in the same accounts which are
22 set forth in the Budget Accounts Listing contained in the
23 budget submitted for fiscal year 1995 under section 1105.
24 Any change in the accounts used in the budget submitted
25 under section 1105 for the biennium beginning on October
26 1, 1995, or any succeeding biennium, or in the estimates

1 of outlays and proposed budget authority required under
2 section 1109 for any such biennium, from the accounts
3 set forth in the Budget Accounts Listing contained in the
4 budget submitted under section 1105 for fiscal year 1995,
5 or the previous biennium, as the case may be, shall be
6 made only in consultation with the Committees on Appro-
7 priations, the Committees on the Budget, and the commit-
8 tees having legislative jurisdiction over the programs or
9 activities which will be affected by such changes. The pro-
10 visions of this paragraph do not prohibit the inclusion of
11 proposed new accounts in the Budget Accounts Listing
12 contained in the budget submitted pursuant to section
13 1105 solely for purposes of presenting estimates for pro-
14 posed new programs.”.

15 (c) BUDGET CONTENTS AND SUBMISSION TO THE
16 CONGRESS.—(1) So much of section 1105(a) of title 31,
17 United States Code, as precedes paragraph (1) is amended
18 to read as follows:

19 “(a) On or before the first Monday in February dur-
20 ing the first session of a Congress, beginning with the One
21 Hundred Fourth Congress, the President shall transmit
22 to the Congress, the budget for the biennium beginning
23 on October 1 of such calendar year. The budget transmit-
24 ted under this subsection shall include a budget message

1 and summary and supporting information. The President
2 shall include in each budget the following:".

3 (2) Section 1105(a)(5) of title 31, United States
4 Code, is amended by striking "the fiscal year for which
5 the budget is submitted and the 4 fiscal years after that
6 year" and inserting "each fiscal year in the biennium for
7 which the budget is submitted and in the succeeding bien-
8 nium".

9 (3) Section 1105(a)(6) of title 31, United States
10 Code, is amended by striking "the fiscal year for which
11 the budget is submitted and the 4 fiscal years after that
12 year" and inserting "each fiscal year in the biennium for
13 which the budget is submitted and in the succeeding bien-
14 nium".

15 (4) Section 1105(a)(9)(C) of title 31, United States
16 Code, is amended by striking "the fiscal year" and insert-
17 ing "each fiscal year in the biennium".

18 (5) Section 1105(a)(12) of title 31, United States
19 Code, is amended—

20 (A) by striking "the fiscal year" in subpara-
21 graph (A) and inserting "each fiscal year in the bi-
22 ennium"; and

23 (B) by striking "4 fiscal years after that year"
24 in subparagraph (B) and inserting "2 fiscal years

1 immediately following the second fiscal year in such
2 biennium”.

3 (6) Section 1105(a)(13) of title 31, United States
4 Code, is amended by striking “the fiscal year” and insert-
5 ing “each fiscal year in the biennium”.

6 (7) Section 1105(a)(14) of title 31, United States
7 Code, is amended by striking “that year” and inserting
8 “each fiscal year in the biennium for which the budget
9 is submitted”.

10 (8) Section 1105(a)(16) of title 31, United States
11 Code, is amended by striking “the fiscal year” and insert-
12 ing “each fiscal year in the biennium”.

13 (9) Section 1105(a)(17) of title 31, United States
14 Code, is amended—

15 (A) by striking “the fiscal year following the
16 fiscal year” and inserting “each fiscal year in the bi-
17 ennium following the biennium”;

18 (B) by striking “that following fiscal year” and
19 inserting “each such fiscal year”; and

20 (C) by striking “fiscal year before the fiscal
21 year” and inserting “biennium before the bien-
22 nium”.

23 (10) Section 1105(a)(18) of title 31, United States
24 Code, is amended—

1 (A) by striking “the prior fiscal year” and in-
2 serting “each of the 2 most recently completed fiscal
3 years”;

4 (B) by striking “for that year” and inserting
5 “with respect to that fiscal year”; and

6 (C) by striking “in that year” and inserting “in
7 that fiscal year”.

8 (11) Section 1105(a)(19) of title 31, United States
9 Code, is amended—

10 (A) by striking “the prior fiscal year” and in-
11 serting “each of the 2 most recently completed fiscal
12 years”;

13 (B) by striking “for that year” and inserting
14 “with respect to that fiscal year”; and

15 (C) by striking “in that year” each place it ap-
16 pears and inserting “in that fiscal year”.

17 (d) ESTIMATED EXPENDITURES OF LEGISLATIVE
18 AND JUDICIAL BRANCHES.—Section 1105(b) of title 31,
19 United States Code, is amended by striking “each year”
20 and inserting “each even-numbered year”.

21 (e) RECOMMENDATIONS TO MEET ESTIMATED DEFICI-
22 CIENCIES.—Section 1105(c) of title 31, United States
23 Code, is amended—

24 (1) by striking “fiscal year for” each place it
25 appears and inserting “biennium for”;

1 (2) by inserting “or current biennium, as the
2 case may be,” after “current fiscal year”; and

3 (3) by striking “that year” and inserting “that
4 period”.

5 (f) STATEMENT WITH RESPECT TO CERTAIN
6 CHANGES.—Section 1105(d) of title 31, United States
7 Code, is amended by striking “fiscal year” and inserting
8 “biennium”.

9 (g) CAPITAL INVESTMENT ANALYSIS.—Section
10 1105(e) of title 31, United States Code, is amended by
11 striking “ensuing fiscal year” and inserting “biennium to
12 which such budget relates”.

13 (h) COMPLIANCE WITH MAXIMUM DEFICIT
14 AMOUNT.—Section 1105(f) of title 31, United States
15 Code, is amended by striking “a fiscal year” and inserting
16 “a biennium” and by striking “fiscal years” and inserting
17 “bienniums”.

18 (i) SUPPLEMENTAL BUDGET ESTIMATES AND
19 CHANGES.—(1) Section 1106(a) of title 31, United States
20 Code, is amended—

21 (A) in the matter preceding paragraph (1) by
22 striking “fiscal year” and inserting “biennium”;

23 (B) in paragraph (1) by striking “that fiscal
24 year” and inserting “each fiscal year in such bien-
25 nium”;

1 (C) in paragraph (2) by striking “4 fiscal years
2 following the fiscal year” and inserting “2 fiscal
3 years following the biennium”;

4 (D) by striking “future fiscal years” in para-
5 graph (3) and inserting “the 2 fiscal years following
6 the biennium for which the budget is submitted”;
7 and

8 (E) by striking “fiscal year” in paragraph (3)
9 and inserting “biennium”.

10 (2) Section 1106(b) of title 31, United States Code,
11 is amended by—

12 (A) striking “Before July 16 of each year” and
13 inserting “On or before the fifteenth day after the
14 day on which the second session of a Congress con-
15 venes”;

16 (B) striking “the fiscal year” and inserting
17 “each fiscal year in the biennium”; and

18 (C) striking the last sentence.

19 (j) CURRENT PROGRAMS AND ACTIVITIES ESTI-
20 MATES.—(1) Section 1109(a) of title 31, United States
21 Code, is amended—

22 (A) by striking “On or before the first Monday
23 after January 3 of each year (on or before February
24 5 in 1986)” and inserting “At the same time the

1 budget required by section 1105 is submitted for a
2 biennium"; and

3 (B) by striking "the following fiscal year" and
4 inserting "each fiscal year of such period".

5 (2) Section 1109(b) of title 31, United States Code,
6 is amended by inserting "odd-numbered calendar" after
7 "each".

8 (k) YEAR-AHEAD REQUESTS FOR AUTHORIZING
9 LEGISLATION.—Section 1110 of title 31, United States
10 Code, is amended—

11 (1) by striking "fiscal year" and inserting "bi-
12 ennium (beginning on or after October 1, 1995)",
13 and

14 (2) by striking "year before the year in which
15 the fiscal year begins" and inserting "second cal-
16 endar year preceding the calendar year in which the
17 biennium begins".

18 (l) BUDGET INFORMATION ON CONSULTING SERV-
19 ICES.—Section 1114 of title 31, United States Code, is
20 amended—

21 (1) by striking "The" each place it appears and
22 inserting "For each biennium beginning with the bi-
23 ennium beginning on October 1, 1995, the"; and

24 (2) by striking "each year" each place it ap-
25 pears.

1 **TITLE II—BINDING BUDGET**
2 **RESOLUTION**

3 **SEC. 201. JOINT RESOLUTION ON THE BUDGET.**

4 (a) **DEFINITIONS.**—Paragraph (4) of section 3 of the
5 Congressional Budget and Impoundment Control Act of
6 1974 is amended to read as follows:

7 “(4) The term ‘joint resolution on the budget’
8 means—

9 “(A) a joint resolution setting forth the
10 simplified budget for the United States Govern-
11 ment for a biennium as provided in section 301;
12 and

13 “(B) any other joint resolution revising the
14 budget for the United States Government for a
15 biennium as described in section 304.”.

16 (b) **CONFORMING TECHNICAL AMENDMENTS CHANG-**
17 **ING “CONCURRENT” TO “JOINT” RESOLUTION.**—(1) Sec-
18 tions 300, 301, 302, 303, 304, 305, 308, 310, 311, 601,
19 602, 603, 604, 605, and 606 are amended by striking
20 “concurrent resolution” each place it appears and by in-
21 serting in its place “joint resolution”.

22 (3) The table of contents set forth in section 1(b) of
23 the Congressional Budget and Impoundment Control Act
24 of 1974 is amended by striking “Concurrent” in the items

1 relating to sections 301, 303, and 304 and inserting
2 “Joint”.

3 (3) Clauses 4(a)(2), 4(b)(2), 4(g), and 4(h) of rule
4 X, clause 8 of rule XXIII, and rule XLIX of the Rules
5 of the House of Representatives are amended by striking
6 “concurrent” and by inserting in its place “joint”.

7 (4) Section 258C(1)(B) of the Deficit Control Act of
8 1985 is amended by striking “concurrent” and inserting
9 “joint”.

10 **TITLE III—ENHANCED** 11 **RESCISSIONS**

12 **SEC. 301. EXPEDITED CONSIDERATION OF CERTAIN PRO-** 13 **POSED RESCISSIONS.**

14 (a) IN GENERAL.—Part B of title X of the Congres-
15 sional Budget and Impoundment Control Act of 1974 (2
16 U.S.C. 681 et seq.) is amended by redesignating sections
17 1013 through 1017 as sections 1014 through 1018, re-
18 spectively, and inserting after section 1012 the following
19 new section:

20 **“EXPEDITED CONSIDERATION OF CERTAIN PROPOSED** 21 **RESCISSIONS**

22 **“SEC. 1013. (a) PROPOSED RESCISSION OF BUDGET**
23 **AUTHORITY.**—In addition to the method of rescinding
24 budget authority specified in section 1012, the President
25 may propose, at the time and in the manner provided in
26 subsection (b), the rescission of any budget authority pro-

1 vided in an appropriations Act. Funds made available for
2 obligation under this procedure may not be proposed for
3 rescission again under this section or section 1012.

4 “(b) TRANSMITTAL OF SPECIAL MESSAGE.—

5 “(1) Not later than 3 days after the date of en-
6 actment of an appropriation Act, the President may
7 transmit to Congress a special message proposing to
8 rescind amounts of budget authority provided in
9 that Act and include with that special message a
10 draft bill or joint resolution that, if enacted, would
11 only rescind that budget authority.

12 “(2) In the case of an appropriation Act that
13 includes accounts within the jurisdiction of more
14 than one subcommittee of the Committee on Appro-
15 priations, the President in proposing to rescind
16 budget authority under this section shall send a sep-
17 arate special message and accompanying draft bill or
18 joint resolution for accounts within the jurisdiction
19 of each such subcommittee.

20 “(3) Each special message shall specify, with
21 respect to the budget authority proposed to be re-
22 scinded, the matters referred to in paragraphs (1)
23 through (5) of section 1012(a).

24 “(c) LIMITATION ON AMOUNTS SUBJECT TO RESCIS-
25 SION.—

1 “(1) The amount of budget authority which the
2 President may propose to rescind in a special mes-
3 sage under this section for a particular program,
4 project, or activity for a fiscal year may not exceed
5 25 percent of the amount appropriated for that pro-
6 gram, project, or activity in that Act.

7 “(2) The limitation contained in paragraph (1)
8 shall only apply to a program, project, or activity
9 that is authorized by law.

10 “(d) PROCEDURES FOR EXPEDITED CONSIDER-
11 ATION.—

12 “(1)(A) Before the close of the second day of
13 continuous session of the applicable House after the
14 date of receipt of a special message transmitted to
15 Congress under subsection (b), the majority leader
16 or minority leader of the House of Congress in
17 which the appropriation Act involved originated shall
18 introduce (by request) the draft bill or joint resolu-
19 tion accompanying that special message. If the bill
20 or joint resolution is not introduced as provided in
21 the preceding sentence, then, on the third day of
22 continuous session of that House after the date of
23 receipt of that special message, any Member of that
24 House may introduce the bill or joint resolution.

1 “(B) The bill or joint resolution shall be re-
2 ferred to the Committee on Appropriations of that
3 House. The committee shall report the bill or joint
4 resolution without substantive revision and with or
5 without recommendation. The bill or joint resolution
6 shall be reported not later than the seventh day of
7 continuous session of that House after the date of
8 receipt of that special message. If the Committee on
9 Appropriations fails to report the bill or joint resolu-
10 tion within that period, that committee shall be
11 automatically discharged from consideration of the
12 bill or joint resolution, and the bill or joint resolu-
13 tion shall be placed on the appropriate calendar.

14 “(C) A vote on final passage of the bill or joint
15 resolution shall be taken in that House on or before
16 the close of the 10th calendar day of continuous ses-
17 sion of that House after the date of the introduction
18 of the bill or joint resolution in that House. If the
19 bill or joint resolution is agreed to, the Clerk of the
20 House of Representatives (in the case of a bill or
21 joint resolution agreed to in the House of Represent-
22 atives) or the Secretary of the Senate (in the case
23 of a bill or joint resolution agreed to in the Senate)
24 shall cause the bill or joint resolution to be en-
25 grossed, certified, and transmitted to the other

1 House of Congress on the same calendar day on
2 which the bill or joint resolution is agreed to.

3 “(2)(A) A bill or joint resolution transmitted to
4 the House of Representatives or the Senate pursu-
5 ant to paragraph (1)(C) shall be referred to the
6 Committee on Appropriations of that House. The
7 committee shall report the bill or joint resolution
8 without substantive revision and with or without rec-
9 ommendation. The bill or joint resolution shall be re-
10 ported not later than the seventh day of continuous
11 session of that House after it receives the bill or
12 joint resolution. A committee failing to report the
13 bill or joint resolution within such period shall be
14 automatically discharged from consideration of the
15 bill or joint resolution, and the bill or joint resolu-
16 tion shall be placed upon the appropriate calendar.

17 “(B) A vote on final passage of a bill or joint
18 resolution transmitted to that House shall be taken
19 on or before the close of the 10th calendar day of
20 continuous session of that House after the date on
21 which the bill or joint resolution is transmitted. If
22 the bill or joint resolution is agreed to in that
23 House, the Clerk of the House of Representatives
24 (in the case of a bill or joint resolution agreed to in
25 the House of Representatives) or the Secretary of

1 the Senate (in the case of a bill or joint resolution
2 agreed to in the Senate) shall cause the engrossed
3 bill or joint resolution to be returned to the House
4 in which the bill or joint resolution originated.

5 “(3)(A) A motion in the House of Representa-
6 tives to proceed to the consideration of a bill or joint
7 resolution under this section shall be highly privi-
8 leged and not debatable. An amendment to the mo-
9 tion shall not be in order, nor shall it be in order
10 to move to reconsider the vote by which the motion
11 is agreed to or disagreed to.

12 “(B) Debate in the House of Representatives
13 on a bill or joint resolution under this section shall
14 not exceed 4 hours, which shall be divided equally
15 between those favoring and those opposing the bill
16 or joint resolution. A motion further to limit debate
17 shall not be debatable. It shall not be in order to
18 move to recommit a bill or joint resolution under
19 this section or to move to reconsider the vote by
20 which the bill or joint resolution is agreed to or dis-
21 agreed to.

22 “(C) Appeals from decisions of the Chair relat-
23 ing to the application of the Rules of the House of
24 Representatives to the procedure relating to a bill or

1 joint resolution under this section shall be decided
2 without debate.

3 “(D) Except to the extent specifically provided
4 in the preceding provisions of this subsection, con-
5 sideration of a bill or joint resolution under this sec-
6 tion shall be governed by the Rules of the House of
7 Representatives.

8 “(4)(A) A motion in the Senate to proceed to
9 the consideration of a bill or joint resolution under
10 this section shall be privileged and not debatable. An
11 amendment to the motion shall not be in order, nor
12 shall it be in order to move to reconsider the vote
13 by which the motion is agreed to or disagreed to.

14 “(B) Debate in the Senate on a bill or joint res-
15 olution under this section, and all debatable motions
16 and appeals in connection therewith, shall not exceed
17 10 hours. The time shall be equally divided between,
18 and controlled by, the majority leader and the mi-
19 nority leader or their designees.

20 “(C) Debate in the Senate on any debatable
21 motion or appeal in connection with a bill or joint
22 resolution under this section shall be limited to not
23 more than 1 hour, to be equally divided between,
24 and controlled by, the mover and the manager of the
25 bill or joint resolution, except that in the event the

1 manager of the bill or joint resolution is in favor of
2 any such motion or appeal, the time in opposition
3 thereto, shall be controlled by the minority leader or
4 his designee. Such leaders, or either of them, may,
5 from time under their control on the passage of a
6 bill or joint resolution, allot additional time to any
7 Senator during the consideration of any debatable
8 motion or appeal.

9 “(D) A motion in the Senate to further limit
10 debate on a bill or joint resolution under this section
11 is not debatable. A motion to recommit a bill or joint
12 resolution under this section is not in order.

13 “(e) AMENDMENTS PROHIBITED.—No amendment to
14 a bill or joint resolution considered under this section shall
15 be in order in either the House of Representatives or the
16 Senate. No motion to suspend the application of this sub-
17 section shall be in order in either House, nor shall it be
18 in order in either House to suspend the application of this
19 subsection by unanimous consent.

20 “(f) REQUIREMENT TO MAKE AVAILABLE FOR OBLI-
21 GATION.—Any amount of budget authority proposed to be
22 rescinded in a special message transmitted to Congress
23 under subsection (b) shall be made available for obligation
24 on the day after the date on which either House defeats

1 the bill or joint resolution transmitted with that special
2 message.

3 “(g) DEFINITIONS.—For purposes of this section—

4 “(1) the term ‘appropriation Act’ means any
5 general or special appropriation Act, and any Act or
6 joint resolution making supplemental, deficiency, or
7 continuing appropriations; and

8 “(2) continuity of a session of either House of
9 Congress shall be considered as broken only by an
10 adjournment of that House sine die, and the days on
11 which that House is not in session because of an ad-
12 journment of more than 3 days to a date certain
13 shall be excluded in the computation of any period.”.

14 (b) EXERCISE OF RULEMAKING POWERS.—Section
15 904 of such Act (2 U.S.C. 621 note) is amended—

16 (1) by striking “and 1017” in subsection (a)
17 and inserting “1013, and 1018”; and

18 (2) by striking “section 1017” in subsection (d)
19 and inserting “sections 1013 and 1018”; and

20 (c) CONFORMING AMENDMENTS.—

21 (1) Section 1011 of such Act (2 U.S.C. 682(5))
22 is amended—

23 (A) in paragraph (4), by striking “1013”
24 and inserting “1014”; and

25 (B) in paragraph (5)—

(i) by striking “1016” and inserting “1017”; and

(ii) by striking “1017(b)(1)” and inserting “1018(b)(1)”.

(2) Section 1015 of such Act (2 U.S.C. 685) (as redesignated by section 2(a)) is amended—

(A) by striking “1012 or 1013” each place it appears and inserting “1012, 1013, or 1014”;

(B) in subsection (b)(1), by striking “1012” and inserting “1012 or 1013”;

(C) in subsection (b)(2), by striking “1013” and inserting “1014”; and

(D) in subsection (e)(2)—

(i) by striking “and” at the end of subparagraph (A);

(ii) by redesignating subparagraph (B) as subparagraph (C);

(iii) by striking “1013” in subparagraph (C) (as so redesignated) and inserting “1014”; and

(iv) by inserting after subparagraph (A) the following new subparagraph:

1 “(B) he has transmitted a special message
2 under section 1013 with respect to a proposed
3 rescission; and”.

4 (3) Section 1016 of such Act (2 U.S.C. 686)
5 (as redesignated by section 2(a)) is amended by
6 striking “1012 or 1013” each place it appears and
7 inserting “1012, 1013, or 1014”.

8 (d) CLERICAL AMENDMENTS.—The table of sections
9 for subpart B of title X of such Act is amended—

10 (1) by redesignating the items relating to sec-
11 tions 1013 through 1017 as items relating to sec-
12 tions 1014 through 1018; and

13 (2) by inserting after the item relating to sec-
14 tion 1012 the following new item:

“Sec. 1013. Expedited consideration of certain proposed rescissions.”.

15 **TITLE IV—SUPERMAJORITY** 16 **POINTS OF ORDER**

17 **SEC. 401. SUPERMAJORITY POINTS OF ORDER.**

18 Section 904(c) of the Congressional Budget Act of
19 1974 is amended by adding at the end the following new
20 sentence: “Any point of order set forth in title III, IV,
21 or VI may be waived or suspended in the House of Rep-
22 resentatives only by the affirmative vote of three-fifths of
23 the Members voting, a quorum being present.”.

January 26, 1993

[From the Congressional Record page H259]

I

103D CONGRESS
1ST SESSION**H. R. 637**

To authorize the President to veto an item of appropriation in an Act or resolution.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 26, 1993

Mr. SUNDQUIST introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To authorize the President to veto an item of appropriation in an Act or resolution.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. VETO AUTHORITY.**

4 The President may disapprove an item of appropria-
5 tion in any Act or resolution.

6 **SEC. 2. OBJECTION AND RECONSIDERATION.**

7 Whenever the President disapproves an item of ap-
8 propriation pursuant to this Act, the President shall des-

1 ignate the disapproved item and return a copy of such
2 item, with his objections, for reconsideration by the House
3 of Congress in which the Act or resolution containing the
4 item originated. If, after such reconsideration, a majority
5 of that House agrees to pass the item, it shall be sent,
6 together with the objections, to the other House for recon-
7 sideration; if approved by a majority of that House, the
8 item shall become law.

January 27, 1993

[From the Congressional Record page H309]

I

103D CONGRESS
1ST SESSION

H. R. 666

To amend the Impoundment Control Act of 1974 to provide that any rescission of budget authority proposed by the President take effect unless specifically disapproved by the adoption of a joint resolution.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 27, 1993

Mr. DORNAN (for himself and Mr. SHAYS) introduced the following bill; which was referred jointly to the Committees on Government Operations and Rules

A BILL

To amend the Impoundment Control Act of 1974 to provide that any rescission of budget authority proposed by the President take effect unless specifically disapproved by the adoption of a joint resolution.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. AMENDMENT OF DEFINITION OF RESCISSION**

4 **BILL.**

5 Paragraph (3) of section 1011 of the Impoundment
6 Control Act of 1974 is amended by striking out "rescinds,
7 in whole or in part," and by inserting in lieu thereof "ex-
8 presses its disapproval of".

1 **SEC. 2. REQUIREMENT TO MAKE AVAILABLE FOR OBLI-**
2 **GATION.**

3 Subsection (b) of section 1012 of the Impoundment
4 Control Act of 1974 is amended by striking out "rescind-
5 ing all or part of" and by inserting in lieu thereof "dis-
6 approving the rescission of".

7 **SEC. 3. EFFECTIVE DATE.**

8 The amendments made by this Act shall take effect
9 with respect to fiscal years beginning after September 30,
10 1993.

February 18, 1993

[From the Congressional Record page H725]

I

103D CONGRESS
1ST SESSION

H. R. 1013

To amend the Congressional Budget Control and Impoundment Act of 1974 to establish procedures for the expedited consideration by the Congress of certain proposals by the President to rescind amounts of budget authority.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 18, 1993

Mr. STENHOLM (for himself, Mr. JOHNSON of South Dakota, Mr. PAYNE of Virginia, Mr. GLICKMAN, Mr. PENNY, Mr. ARMEY, Mr. ANDREWS of Texas, Mr. BACCHUS of Florida, Mr. BAESLER, Mr. BALLENGER, Mr. BEREUTER, Mr. BILBRAY, Mr. BOEHLERT, Mr. BROWDER, Mr. BRYANT, Mr. BURTON of Indiana, Mr. BUYER, Mr. CARDIN, Mr. CLEMENT, Mr. CLINGER, Mr. CONDIT, Mr. COPPERSMITH, Mr. CRAMER, Mr. DIAZ-BALART, Mr. DORNAN, Mr. EDWARDS of Texas, Mr. FINGERHUT, Mr. PETE GEREN of Texas, Mr. GIBBONS, Mr. GILCHREST, Mr. GOSS, Mr. HALL of Texas, Mr. HAMILTON, Ms. HARMAN, Mr. HAYES, Mr. HERGER, Mr. HOBSON, Mr. HUGHES, Mr. INSLEE, Mrs. JOHNSON of Connecticut, Mr. KLINK, Mr. KLUG, Mr. LAROCO, Mr. LANCASTER, Mr. LAUGHLIN, Mr. LEHMAN, Mr. MANN, Mr. MAZZOLI, Mrs. MEYERS of Kansas, Mr. MINGE, Mr. MONTGOMERY, Mrs. MORELLA, Mr. NEAL of North Carolina, Mr. OXLEY, Mr. PARKER, Mr. PETERSON of Florida, Mr. PETERSON of Minnesota, Mr. PETRI, Mr. POMBO, Mr. POSHARD, Mr. RAMSTAD, Mr. ROEMER, Mr. ROHRBACHER, Mr. ROWLAND, Mr. SHAYS, Mr. SKELTON, Mr. SLATTERY, Mr. SMITH of Texas, Mr. SPRATT, Mr. SWETT, Mr. TANNER, Mr. TAUZIN, Mr. TAYLOR of Mississippi, Mr. UPTON, Mr. VOLKMER, Mr. WELDON, Mr. WILSON, Mr. WOLF, Mr. WYDEN, and Mr. ZELIFF) introduced the following bill; which was referred jointly to the Committees on Government Operations and Rules

A BILL

To amend the Congressional Budget Control and Impoundment Act of 1974 to establish procedures for the expedited

dated consideration by the Congress of certain proposals by the President to rescind amounts of budget authority.

1 *Be it enacted by the Senate and House of Representa-*
 2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Expedited Consider-
 5 ation of Proposed Rescissions Act of 1993”.

6 **SEC. 2. EXPEDITED CONSIDERATION OF CERTAIN PRO-**
 7 **POSED RESCISSIONS.**

8 (a) IN GENERAL.—Part B of title X of the Congres-
 9 sional Budget and Impoundment Control Act of 1974 (2
 10 U.S.C. 681 et seq.) is amended by redesignating sections
 11 1013 through 1017 as sections 1014 through 1018, re-
 12 spectively, and inserting after section 1012 the following
 13 new section:

14 “EXPEDITED CONSIDERATION OF CERTAIN PROPOSED
 15 RESCISSIONS

16 “SEC. 1013. (a) PROPOSED RESCISSION OF BUDGET
 17 AUTHORITY.—In addition to the method of rescinding
 18 budget authority specified in section 1012, the President
 19 may propose, at the time and in the manner provided in
 20 subsection (b), the rescission of any budget authority pro-
 21 vided in an appropriations Act. Funds made available for
 22 obligation under this procedure may not be proposed for
 23 rescission again under this section or section 1012.

24 “(b) TRANSMITTAL OF SPECIAL MESSAGE.—

“(1) Not later than 3 days after the date of enactment of an appropriation Act, the President may transmit to Congress a special message proposing to rescind amounts of budget authority provided in that Act and include with that special message a draft bill that, if enacted, would only rescind that budget authority. That bill shall clearly identify the amount of budget authority that is proposed to be rescinded for each program, project, or activity to which that budget authority relates.

“(2) In the case of an appropriation Act that includes accounts within the jurisdiction of more than one subcommittee of the Committee on Appropriations, the President in proposing to rescind budget authority under this section shall send a separate special message and accompanying draft bill for accounts within the jurisdiction of each such subcommittee.

“(3) Each special message shall specify, with respect to the budget authority proposed to be rescinded, the matters referred to in paragraphs (1) through (5) of section 1012(a).

“(c) LIMITATION ON AMOUNTS SUBJECT TO RESCISION.—

1 “(1) The amount of budget authority which the
2 President may propose to rescind in a special mes-
3 sage under this section for a particular program,
4 project, or activity for a fiscal year may not exceed
5 25 percent of the amount appropriated for that pro-
6 gram, project, or activity in that Act.

7 “(2) The limitation contained in paragraph (1)
8 shall only apply to amounts specifically authorized to
9 be appropriated for a particular program, project, or
10 activity.

11 “(d) PROCEDURES FOR EXPEDITED CONSIDER-
12 ATION.—

13 “(1)(A) Before the close of the second day of
14 continuous session of the applicable House after the
15 date of receipt of a special message transmitted to
16 Congress under subsection (b), the majority leader
17 or minority leader of the House of Representatives
18 shall introduce (by request) the draft bill accom-
19 panying that special message. If the bill is not intro-
20 duced as provided in the preceding sentence, then,
21 on the third day of continuous session of the House
22 of Representatives after the date of receipt of that
23 special message, any Member of that House may in-
24 troduce the bill.

1 “(B) The bill shall be referred to the Commit-
2 tee on Appropriations of the House of Representa-
3 tives. The committee shall report the bill without
4 substantive revision and with or without rec-
5 ommendation. The bill shall be reported not later
6 than the seventh day of continuous session of that
7 House after the date of receipt of that special mes-
8 sage. If the Committee on Appropriations fails to re-
9 port the bill within that period, that committee shall
10 be automatically discharged from consideration of
11 the bill, and the bill shall be placed on the appro-
12 priate calendar.

13 “(C) During consideration under this para-
14 graph, any Member of the House of Representatives
15 may move to strike any proposed rescission or re-
16 scissions of budget authority if supported by 49
17 other Members.

18 “(D) A vote on final passage of the bill shall be
19 taken in the House of Representatives on or before
20 the close of the 10th calendar day of continuous ses-
21 sion of that House after the date of the introduction
22 of the bill in that House. If the bill is passed, the
23 Clerk of the House of Representatives shall cause
24 the bill to be engrossed, certified, and transmitted to

1 the Senate within one calendar day of the day on
2 which the bill is passed.

3 “(2)(A) A motion in the House of Representa-
4 tives to proceed to the consideration of a bill under
5 this section shall be highly privileged and not debat-
6 able. An amendment to the motion shall not be in
7 order, nor shall it be in order to move to reconsider
8 the vote by which the motion is agreed to or dis-
9 agreed to.

10 “(B) Debate in the House of Representatives
11 on a bill under this section shall not exceed 4 hours,
12 which shall be divided equally between those favoring
13 and those opposing the bill. A motion further to
14 limit debate shall not be debatable. It shall not be
15 in order to move to recommit a bill under this sec-
16 tion or to move to reconsider the vote by which the
17 bill is agreed to or disagreed to.

18 “(C) Appeals from decisions of the Chair relat-
19 ing to the application of the Rules of the House of
20 Representatives to the procedure relating to a bill
21 under this section shall be decided without debate.

22 “(D) Except to the extent specifically provided
23 in the preceding provisions of this subsection, con-
24 sideration of a bill under this section shall be gov-
25 erned by the Rules of the House of Representatives

1 “(3)(A) A bill transmitted to the Senate pursu-
2 ant to paragraph (1)(C) shall be referred to its Com-
3 mittee on Appropriations. The committee shall re-
4 port the bill without substantive revision and with or
5 without recommendation. The bill shall be reported
6 not later than the seventh day of continuous session
7 of the Senate after it receives the bill. A committee
8 failing to report the bill within such period shall be
9 automatically discharged from consideration of the
10 bill, and the bill shall be placed upon the appropriate
11 calendar.

12 “(B) During consideration under this para-
13 graph, any Member of the Senate may move to
14 strike any proposed rescission or rescissions of budg-
15 et authority if supported by 14 other Members.

16 “(C) A vote on final passage of a bill transmit-
17 ted to the Senate shall be taken on or before the
18 close of the 10th calendar day of continuous session
19 of the Senate after the date on which the bill is
20 transmitted. If the bill is passed in the Senate with-
21 out amendment, the Secretary of the Senate shall
22 cause the engrossed bill to be returned to the House
23 of Representatives.

24 “(D) If the bill is amended in the Senate solely
25 as provided by subparagraph (B), the Secretary of

1 the Senate shall cause an engrossed amendment (in
2 the nature of a substitute) to be returned to the
3 House of Representatives. Upon receipt of that
4 amendment from the Senate, the House shall be
5 deemed to have agreed to the Senate amendment
6 and the Clerk of the House of Representatives shall
7 enroll the bill.

8 “(4)(A) A motion in the Senate to proceed to
9 the consideration of a bill under this section shall be
10 privileged and not debatable. An amendment to the
11 motion shall not be in order, nor shall it be in order
12 to move to reconsider the vote by which the motion
13 is agreed to or disagreed to.

14 “(B) Debate in the Senate on a bill under this
15 section, and all debatable motions and appeals in
16 connection therewith, shall not exceed 10 hours. The
17 time shall be equally divided between, and controlled
18 by, the majority leader and the minority leader or
19 their designees.

20 “(C) Debate in the Senate on any debatable
21 motion or appeal in connection with a bill under this
22 section shall be limited to not more than 1 hour, to
23 be equally divided between, and controlled by, the
24 mover and the manager of the bill, except that in
25 the event the manager of the bill is in favor of any

1 such motion or appeal, the time in opposition there-
2 to, shall be controlled by the minority leader or his
3 designee. Such leaders, or either of them, may, from
4 time under their control on the passage of a bill,
5 allot additional time to any Senator during the con-
6 sideration of any debatable motion or appeal.

7 “(D) A motion in the Senate to further limit
8 debate on a bill under this section is not debatable.
9 A motion to recommit a bill under this section is not
10 in order.

11 “(e) AMENDMENTS AND DIVISIONS PROHIBITED.—
12 Except as provided by paragraph (1)(C) or (3)(B) of sub-
13 section (d), no amendment to a bill considered under this
14 section shall be in order in either the House of Represent-
15 atives or the Senate. It shall not be in order to demand
16 a division of the question in the House of Representatives
17 (or in a Committee of the Whole) or in the Senate. No
18 motion to suspend the application of this subsection shall
19 be in order in either House, nor shall it be in order in
20 either House to suspend the application of this subsection
21 by unanimous consent.

22 “(f) REQUIREMENT TO MAKE AVAILABLE FOR OBLI-
23 GATION.—Any amount of budget authority proposed to be
24 rescinded in a special message transmitted to Congress
25 under subsection (b) shall be made available for obligation

1 on the day after the date on which either House defeats
2 the bill transmitted with that special message.

3 “(g) DEFINITIONS.—For purposes of this section—

4 “(1) the term ‘appropriation Act’ means any
5 general or special appropriation Act, and any Act or
6 joint resolution making supplemental, deficiency, or
7 continuing appropriations; and

8 “(2) continuity of a session of either House of
9 Congress shall be considered as broken only by an
10 adjournment of that House sine die, and the days on
11 which that House is not in session because of an ad-
12 journment of more than 3 days to a date certain
13 shall be excluded in the computation of any period.”.

14 (b) EXERCISE OF RULEMAKING POWERS.—Section
15 904 of such Act (2 U.S.C. 621 note) is amended—

16 (1) by striking “and 1017” in subsection (a)
17 and inserting “1013, and 1018”; and

18 (2) by striking “section 1017” in subsection (d)
19 and inserting “sections 1013 and 1018”; and

20 (c) CONFORMING AMENDMENTS.—

21 (1) Section 1011 of such Act (2 U.S.C. 682(5))
22 is amended—

23 (A) in paragraph (4), by striking “1013”
24 and inserting “1014”; and

25 (B) in paragraph (5)—

11

1 (i) by striking “1016” and inserting
2 “1017”; and

3 (ii) by striking “1017(b)(1)” and in-
4 serting “1018(b)(1)”.

5 (2) Section 1015 of such Act (2 U.S.C. 685)
6 (as redesignated by section 2(a)) is amended—

7 (A) by striking “1012 or 1013” each place
8 it appears and inserting “1012, 1013, or
9 1014”;

10 (B) in subsection (b)(1), by striking
11 “1012” and inserting “1012 or 1013”;

12 (C) in subsection (b)(2), by striking
13 “1013” and inserting “1014”; and

14 (D) in subsection (e)(2)—

15 (i) by striking “and” at the end of
16 subparagraph (A);

17 (ii) by redesignating subparagraph
18 (B) as subparagraph (C);

19 (iii) by striking “1013” in subpara-
20 graph (C) (as so redesignated) and insert-
21 ing “1014”; and

22 (iv) by inserting after subparagraph
23 (A) the following new subparagraph:

1 “(B) he has transmitted a special message
2 under section 1013 with respect to a proposed
3 rescission; and”.

4 (3) Section 1016 of such Act (2 U.S.C. 686)
5 (as redesignated by section 2(a)) is amended by
6 striking “1012 or 1013” each place it appears and
7 inserting “1012, 1013, or 1014”.

8 (d) CLERICAL AMENDMENTS.—The table of sections
9 for subpart B of title X of such Act is amended—

10 (1) by redesignating the items relating to sec-
11 tions 1013 through 1017 as items relating to sec-
12 tions 1014 through 1018; and

13 (2) by inserting after the item relating to sec-
14 tion 1012 the following new item:

“Sec. 1013. Expedited consideration of certain proposed rescissions.”.

15 **SEC. 3. APPLICATION.**

16 Section 1013 of the Congressional Budget and Im-
17 poundment Control Act of 1974 (as added by section 2)
18 shall apply to amounts of budget authority provided by
19 appropriation Acts (as defined in subsection (g) of such
20 section) that are enacted during the One Hundred Third
21 Congress.

22 **SEC. 4. TERMINATION.**

23 The authority provided by section 1013 of the Con-
24 gressional Budget and Impoundment Control Act of 1974

1 (as added by section 2) shall terminate effective on the
2 date in 1994 on which Congress adjourns sine die.

By Mr. STENHOLM (for himself, Mr. JOHNSON of South Dakota, Mr. PAYNE of Virginia, Mr. GLICKMAN, Mr. PENNY, Mr. ARMEY, Mr. ANDREWS of Texas, Mr. BACCHUS of Florida, Mr. BAESLER, Mr. BALLENGER, Mr. BEREUTER, Mr. BILBRAY, Mr. BOEHLERT, Mr. BROWDER, Mr. BRYANT, Mr. BURTON of Indiana, Mr. BUYER, Mr. CARDIN, Mr. CLEMENT, Mr. CLINGER, Mr. CONDIT, Mr. COPPERSMITH, Mr. CRAMER, Mr. DIAZ-BALART, Mr. DORNAN, Mr. EDWARDS of Texas, Mr. FINGERHUT, Mr. PETE GEREN of Texas, Mr. GIBBONS, Mr. BILCHREST, Mr. GOSS, Mr. HALL of Texas, Mr. HAMILTON, Ms. HARMAN, Mr. HAYES, Mr. HERGER, Mr. HOBSON, Mr. HUGHES, Mr. INSLEE, Mrs. JOHNSON of Connecticut, Mr. KLINK, Mr. KLUG, Mr. LAROCO, Mr. LANCASTER, Mr. LAUGHLIN, Mr. LEHMAN, Mr. MANN, Mr. MAZZOLI, Mr. MEYERS of Kansas, Mr. MINGE, Mr. MONTGOMERY, Mrs. MORELLA, Mr. NEAL of North Carolina, Mr. OXLEY, Mr. PARKER, Mr. PETERSON of Florida, Mr. PETERSON of Minnesota, Mr. PETRI, Mr. POMBO, Mr. POSHARD, Mr. RAMSTAD, Mr. ROEMER, Mr. ROHRABACHER, Mr. ROWLAND, Mr. SHAYS, Mr. SKELTON, Mr. SLATTERY, Mr. SMITH of Texas, Mr. SPRATT, Mr. SWETT, Mr. TANNER, Mr. TAUZIN, Mr. TAYLOR of Mississippi, Mr. UPTON, Mr. VOLKMER, Mr. WELDON, Mr. WILSON, Mr. WOLF, Mr. WYDEN, and Mr. ZELIFF).

H.R. 1013. A bill to amend the Congressional Budget Control and Impoundment Act of 1974 to establish procedures for the expedited consideration by the Congress of certain proposals by the President to rescind amounts of budget authority; jointly to the Committees on Government Operations and Rules.

[From the Congressional Record page E367]

RESCISSION ACT

HON. TIMOTHY J. PENNY

OF MINNESOTA

Mr. PENNY. Mr. Speaker, today I joined our colleagues CHARLIE STENHOLM, TIM JOHNSON, L.F. PAYNE, and others in introducing the Expedited Consideration of Rescission Act, which passed the House by a wide bipartisan margin in the closing days of the 102d Congress.

The measure we introduce today would amend the 1974 Budget Act to establish a process to expeditiously consider Presidential rescissions. After signing an appropriations bill into law, the President would have 3 calendar days to submit to the House a rescission message containing all rescissions proposed related to the bill just signed. Under the terms of the bill, the President is authorized to rescind up to 100 percent of unauthorized appropriations and up to 25 percent of authorized appropriations. If a majority of the House votes to approve the resolution, it is sent to the Senate, where a process begins similar to that followed by the House. This year, a process is established in the bill to allow a separate vote on any individual rescission contained in the President's rescission package if 50 Members in the House or 15 Members of the Senate requested such a vote.

The important point is that we will finally face votes on rescissions. The authors of special interest provisions tucked away in spending bills will have to defend their actions and if a project or projects survive a vote, only then would it go forward. I firmly believe that more times than not, unauthorized and wasteful spending will not survive the light of day and a vote by the Congress.

This measure, Mr. Speaker and colleagues, is a very modest attempt to put in place a workable process to handle Presidential rescissions. This might be described as line-item veto subject to a majority override in Congress. Frankly, I would support broader line-item veto authority for the President. But this measure is a good start and it deserves the support of every member concerned about the runaway national debt and our children's future. I urge my colleagues to again cosponsor and support this bill.

[From the Congressional Record page E368]

MODIFIED LINE-ITEM VETO BILL

HON. CHARLES W. STENHOLM

OF TEXAS

Mr. STENHOLM. Mr. Speaker, last night, President Clinton outlined an ambitious plan to confront our massive Federal debt. Today, I am introducing legislation on behalf of 80 of my colleagues to provide him with one of the tools he asked for to help him in his effort to reduce the deficit—modified line-item veto authority. The bill I am introducing is essentially the same bill sponsored by our former colleague Tom Carper for the last several Congresses that passed the House last year with overwhelming bipartisan support.

This bill would allow the President to send down a rescission package within 3 days of signing an appropriations bill. Congress would be required to vote up or down on the package under an expedited procedure. The rescissions will take effect if a majority of Congress approves the rescission package. If the rescission bill is defeated in either House the funds for any proposed rescission would be spent. Fifty Members of the House or 15 Senators may request a separate vote on an individual rescission. The bill would provide this new authority for a 2-year test period so that we can see how it works in practice.

In the next few months we will face many tough choices and tough votes. It is important that as we make these tough votes that we be able to assure our constituents that we will eliminate wasteful spending and increase the accountability in the spending of tax dollars. By forcing many programs to stand or fall on their individual merits, this modified line-item veto bill will go a long way toward eliminating the irresponsible spending that the public is justifiably fed up with.

This proposal preserves the power of congressional majorities to control spending decisions. The President may single out individual programs, but he must convince a majority of Congress to agree with him before the spending is cut. This bill will not change the balance of powers between the branches, but it will increase the accountability of both branches in the budget process.

I urge my colleagues to support this small, reasonable reform of the spending process.

SUMMARY OF EXPEDITED RESCISSION LEGISLATION

The legislation would amend the Budget Control and Impoundment Act of 1974 to set in place the following supplemental procedure for rescissions for a two-year trial period:

After signing an appropriations bill into law, the President would have three days to submit to the House a rescission message that includes all proposed rescissions for the Appropriations bill just signed and a draft bill that would enact the proposed rescissions.

The President could propose to rescind 100 percent of unauthorized programs and up to 25 percent of specifically authorized programs or projects.

The resolution would be introduced in the House at the earliest opportunity by the majority and minority leaders. The bill would be referred to the Appropriations Committee, which must report it out without substantive amendment within seven days.

Within ten legislative days of introduction, a vote shall be taken on the rescission bill. The bill may not be amended on the floor, except that 50 House Members can request a vote on a motion to strike an individual rescission from the rescission bill.

If approved by a simple majority of the House, the bill would be sent to the Senate for consideration under the same expedited procedure. Fifteen Senators may request a separate vote on an individual rescission.

If a simple majority in either the House or Senate defeats a rescission proposal, the funds for programs covered by the proposal would be released for obligation in accordance with the previously enacted appropriation.

If a rescission bill is approved by the House and Senate, it would be sent to the President for his signature.

The change to the 1974 Budget Act would be effective throughout the 103d Congress, at which time Congress may elect to extend it, revise it or let it expire.

February 23, 1993

[From the Congressional Record page H794]

I

103D CONGRESS
1ST SESSION**H. R. 1075**

To allow an item veto in appropriation Acts for fiscal years 1994, 1995, 1996, 1997, and 1998 by the President to reduce spending to levels necessary to achieve a balanced budget by fiscal year 1998, and to establish select committees on congressional budget and appropriation process reform in the House of Representatives and in the Senate.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 23, 1993

Mr. WALKER introduced the following bill; which was referred jointly to the Committees on Government Operations and Rules

A BILL

To allow an item veto in appropriation Acts for fiscal years 1994, 1995, 1996, 1997, and 1998 by the President to reduce spending to levels necessary to achieve a balanced budget by fiscal year 1998, and to establish select committees on congressional budget and appropriation process reform in the House of Representatives and in the Senate.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **TITLE I—ITEM VETO TO ACHIEVE**
2 **BALANCED BUDGET BY FISCAL YEAR 1998**
3 **SEC. 101. PRESIDENT'S BUDGET SUBMISSION MUST BE IN**
4 **BALANCE BY FISCAL YEAR 1998.**

5 The budgets submitted by the President under sec-
6 tion 1105(a) of title 31, United States Code, for fiscal
7 years 1995, 1996, and 1997 shall be consistent with the
8 achievement of a balanced budget by fiscal year 1998, and
9 the budget so submitted for fiscal year 1998 shall be in
10 balance.

11 **SEC. 102. ITEM VETO.**

12 Subject to section 103, the President may disapprove
13 any item of appropriation in any Act or joint resolution
14 making or continuing appropriations for fiscal year 1994,
15 1995, 1996, 1997, or 1998.

16 **SEC. 103. LIMITATION.**

17 (a) **IN GENERAL.**—The amount of budget authority
18 which the President may disapprove under section 102
19 with respect to any Act or joint resolution may not exceed
20 an amount equal to the amount by which the total budget
21 authority for that fiscal year in that Act or joint resolution
22 exceeds the amount of budget authority for that fiscal year
23 which the Director of the Office of Management and
24 Budget estimates to be the amount of budget authority
25 submitted by the President under section 1105(a) of title

1 31, United States Code, in accounts covered by that Act
2 or joint resolution.

3 (b) ESTIMATING RULES.—The estimates referred to
4 in subsection (a) shall be made as prescribed in section
5 251(a)(7) of the Balanced Budget and Emergency Deficit
6 Control Act of 1985. The Director of the Office of Man-
7 agement and Budget shall transmit a report to the Presi-
8 dent and to each House of Congress containing any such
9 estimate within 5 calendar days after the enactment of
10 any Act or joint resolution referred to in section 102.

11 **SEC. 104. PROCEDURE.**

12 The President shall return with objections any item
13 of appropriation disapproved to the House in which the
14 Act or joint resolution containing such item originated.
15 The Congress may, in the manner prescribed under sec-
16 tion 7 of Article I for Acts disapproved by the President,
17 reconsider any item so disapproved.

18 **TITLE II—CHANGING BUDGETING AND AP-**
19 **PROPRIATING BY ELIMINATING THE**
20 **COMMITTEES ON APPROPRIATIONS**
21 **Subtitle A—Changes in the House**
22 **of Representatives**

23 **SEC. 201. ESTABLISHMENT; FUNCTIONS.**

24 There is created in the House of Representatives a
25 select committee which is authorized and directed to re-

1 port to the House of Representatives in January 1994 a
2 resolution amending the Rules of the House of Represent-
3 atives with respect to the budget and appropriations proc-
4 ess, which includes the following changes:

5 (1) Elimination of the Committee on Appropria-
6 tions.

7 (2) Modification of the membership and juris-
8 diction of the Committee on the Budget to—

9 (A) make that committee an exclusive com-
10 mittee;

11 (B) provide that committee with exclusive
12 jurisdiction to report (anytime after September
13 15 of the calendar year in which the fiscal year
14 commences) joint resolutions making continuing
15 appropriations at current levels; and

16 (C) provide that committee with exclusive
17 jurisdiction to make binding allocations of
18 budget authority, spending authority, entitle-
19 ment authority, and credit authority by major
20 functional category and revenues to other
21 standing committees, consistent with the re-
22 quirements of the Balanced Budget and Emer-
23 gency Deficit Control Act of 1985.

24 (3) Modification of the jurisdiction of each
25 standing committee to provide it with the authority

1 to make appropriations with respect to its subject
2 matter jurisdiction.

3 **SEC. 202. MEMBERSHIP.**

4 The select committee is to be composed of 10 Mem-
5 bers of the House of Representatives to be appointed by
6 the Speaker; 5 from the majority party and 5 from the
7 minority party, one of whom he shall designate as chair-
8 man. Any vacancy occurring in the membership of the
9 committee shall be filled in the manner in which the origi-
10 nal appointment was made. For purposes of this section,
11 the term "Members" shall mean any Representative in,
12 or Delegate or Resident Commissioner to, the House of
13 Representatives.

14 **SEC. 203. AUTHORITY AND PROCEDURES.**

15 (a) **AUTHORITY.**—To carry out this subtitle, the se-
16 lect committee is authorized to hold hearings and to sit
17 and act, whether the House is in session, has recessed,
18 or has adjourned.

19 (b) **RULES OF PROCEDURE.**—(1) The provisions of
20 clauses 1, 2, and 3 of rule XI of the Rules of the House
21 of Representatives, except the provisions of clause 2(m)
22 relating to the subpoena power, shall apply to the select
23 committee.

24 (2) Nothing contained in subsection (a) shall be con-
25 strued to limit the applicability of clause 2(i) of rule XI

1 of the Rules of the House of Representatives to the select
2 committee.

3 **SEC. 204. ADMINISTRATIVE PROVISIONS.**

4 (a) **EXPENSES.**—Subject to the adoption of expense
5 resolutions as required by clause 5 of rule XI of the Rules
6 of the House of Representatives, the select committee may
7 incur expenses in connection with its duties under this
8 subtitle.

9 (b) **STAFF.**—To carry out its functions under this
10 subtitle, the select committee is authorized—

11 (1) to appoint, either on a permanent basis or
12 as experts or consultants, such staff as the select
13 committee considers necessary;

14 (2) to prescribe the duties and responsibilities
15 of such staff;

16 (3) to fix the compensation of such staff at a
17 single per annum gross rate which does not exceed
18 the highest rate of basic pay, as in effect from time
19 to time, of level V of the Executive Schedule in sec-
20 tion 5316 of title 5, United States Code; and

21 (4) to terminate the employment of any such
22 staff as the select committee considers appropriate.

23 (c) **EXPIRATION.**—The select committee and all au-
24 thority granted in this subtitle shall expire 30 days after
25 reporting to the House.

1 **SEC. 205. RECORDS.**

2 The records, files, and materials of the select commit-
3 tee shall be transferred to the Clerk of the House.

4 **Subtitle B—Changes in the Senate**

5 **SEC. 211. ESTABLISHMENT; FUNCTIONS.**

6 There is created in the Senate a select committee
7 which is authorized and directed to report to the Senate
8 in January 1994 a resolution amending the Standing
9 Rules of the Senate with respect to the budget and appro-
10 priations process, which includes the following changes:

11 (1) Elimination of the Committee on Appropria-
12 tions.

13 (2) Modification of the membership and juris-
14 diction of the Committee on the Budget to—

15 (A) make that committee an exclusive com-
16 mittee;

17 (B) provide that committee with exclusive
18 jurisdiction to report (anytime after September
19 15 of the calendar year in which the fiscal year
20 commences) joint resolutions making continuing
21 appropriations at current levels; and

22 (C) provide that committee with exclusive
23 jurisdiction to make binding allocations of
24 budget authority, spending authority, entitle-
25 ment authority, and credit authority by major
26 functional category and revenues to other

1 standing committees, consistent with the re-
2 quirements of the Balanced Budget and Emer-
3 gency Deficit Control Act of 1985.

4 (3) Modification of the jurisdiction of each
5 standing committee to provide it with the authority
6 to make appropriations with respect to its subject
7 matter jurisdiction.

8 **SEC. 212. MEMBERSHIP.**

9 The select committee is to be composed of 6 Members
10 of the Senate to be appointed by the President of the Sen-
11 ate; 3 from the majority party and 3 from the minority
12 party, one of whom he shall designate as chairman. Any
13 vacancy occurring in the membership of the committee
14 shall be filled in the manner in which the original appoint-
15 ment was made.

16 **SEC. 213. AUTHORITY.**

17 To carry out this subtitle, the select committee is au-
18 thorized to hold hearings and to sit and act, whether the
19 Senate is in session, has recessed, or has adjourned.

20 **SEC. 214. ADMINISTRATIVE PROVISIONS.**

21 (a) **EXPENSES.**—Subject to the adoption of an au-
22 thorization resolution as required by paragraph 9 of rule
23 XXVI of the Standing Rules of the Senate, the select com-
24 mittee may incur expenses in connection with its duties
25 under this subtitle.

1 (b) STAFF.—To carry out its functions under this
2 subtitle, the select committee is authorized—

3 (1) to appoint, either on a permanent basis or
4 as experts or consultants, such staff as the select
5 committee considers necessary;

6 (2) to prescribe the duties and responsibilities
7 of such staff;

8 (3) to fix the compensation of such staff at a
9 single per annum gross rate which does not exceed
10 the highest rate of basic pay, as in effect from time
11 to time, of level V of the Executive Schedule in sec-
12 tion 5316 of title 5, United States Code; and

13 (4) to terminate the employment of any such
14 staff as the select committee considers appropriate.

15 (c) EXPIRATION.—The select committee and all au-
16 thority granted in this subtitle shall expire 30 days after
17 reporting to the Senate.

18 **SEC. 215. RECORDS.**

19 The records, files, and materials of the select commit-
20 tee shall be transferred to the Secretary of the Senate.

February 24, 1993

[From the Congressional Record pages H870-874]

Mr. ORTON. Mr. Speaker, realizing the lateness of the hour this evening, I will be as brief as possible.

I do not take this opportunity often, but this evening is an important time to rise and take the floor of the House to explain a couple of bills which I have had the opportunity of filing today, which deal with the budget process, the legislative process. And I feel it important just to take a few minutes and explain these two matters, which I am filing today. And I believe this is a prime opportunity and an appropriate moment to focus for a few minutes on the budget process.

One week ago this evening, we came together in a Joint Session of Congress and listened to the President in his State of the Union Address present to us his plan for economic change, for renewal in America.

That plan, I believe, does, in fact, point us in a new direction, does, in fact, focus our attention on many, many areas, on changes which must take place in order to place our Nation back on the right track.

But as I have been here in this body over the last 2 years, I believe, in examining the process, the legislative process by which we budget and spend the taxpayers' money, I believe the system is broken. I believe that change is necessary in order to adopt the President's package, in order to adopt the majority or the minority's package, in order to adopt any package which makes real reform, which really changes, which really reduces the deficit. I believe that legislative process change is required.

Therefore, the two bills that I have filed today, the first is an amendment to the U.S. Constitution. I do not take lightly the amending of our Constitution. This great document has served us well for over 200 years, and it should be amended only when absolutely necessary. But I believe that time is now. And in fact, I have supported since I have arrived here the passage of a balanced budget amendment. However, this year I am filing a balanced budget amendment slightly different than the others which have been filed.

Let me just outline the simplicity of this particular amendment. There are only 6 sections of the amendment.

The first section simply states;

"Total outlays of the United States for any fiscal year shall not exceed total receipts to the United States for that fiscal year.

That simple statement requires us to only spend that which we bring in.

Section 2 states:

"Prior to each fiscal year, the President shall transmit to the Congress a proposed budget for the United States Government for that fiscal year in which total outlays do not exceed total receipts."

This says that the President must submit his budget request, which is in balance.

Section 3 says that:

"For any fiscal year in which actual outlays exceed actual receipts, the Congress shall provide, by law, for the repayment in the

ensuing fiscal year of such excess outlays. If Congress fails to provide by law for repayment, within 15 days after Congress adjourns to end a session, there shall be a sequestration of all outlays to eliminate a budget deficit."

This is the principal difference between this and other balanced budget amendments.

It says that we have to actually examine the receipts and expenditures at the end of the fiscal year, and if in fact we are in deficit for that previous fiscal year we must correct it. We have to provide by law for repayment, and if we do not a hard sequestration would balance the budget. We must also eliminate any constitutional question which there may have been over the sequestration of the Gramm-Rudman and subsequent budget enforcement legislation.

Section 4, in acknowledging that there may be times either of war, of depression, or whatever, and we do not state in the amendment itself a reason which may bring the Congress and the President to the conclusion that we cannot, for the good of the country, balance the budget in that particular fiscal year, section 4 states that "the provisions of this article may be waived for any fiscal year only if Congress provides by law by a majority of the whole number of each House, and such waiver shall be subject to a veto of the President."

That means that if the Congress wishes to waive the balanced budget requirement itself, it must override a veto of the President; that if in fact it is so detrimental to our economy or we could not function appropriately with national security, we must waive the balanced budget requirement, we could so do.

Section 5, simply in defining receipts and outlays, states that "total receipts shall include all receipts of the U.S. Government except those derived from borrowing." We cannot borrow our way out of the problem. "Total outlays shall include all outlays of the U.S. Government except for those for repayment of debt principal."

Finally, section 6 states that "this article shall take effect beginning with fiscal year 2000 or with the second fiscal year beginning after its ratification," whichever is later.

I personally believe that it is time. I believe that in order to place upon this Government, the Congress and the President, to place fiscal responsibility upon us, to force us to balance our own budget, I believe that it is necessary to require us to do so in that very document which creates and controls the operation of this Government, the Constitution.

Therefore, I would urge my colleagues to support and vote for this balanced budget amendment, which I believe does make the statement required but does not so restrict the Government from being able to act.

Now, there are many of my colleagues who would disagree with me, who would say that we should not place into our Constitution such a fiscal provision. We have argued on the floor of this House in previous years, most recently last July, that in fact we could and should balance the budget by statute, and in fact that balanced budget amendment will not balance the budget. It only says in the Constitution that we must do it.

How do we do it? We must change the budget process by statute in order to provide the mechanism whereby we can balance the budget. Therefore, I do believe that an amendment is necessary, but even without a constitutional amendment the second bill which I am filing today would in fact provide the statutory framework, the process, the mechanism for arriving at the balanced budget itself.

I have prepared, in Ross Perot-type flow charts, an explanation of our current budget process, and to graphically illustrate the changes that this amendment would entail, a second flow chart to show the changes in red.

First of all, let us outline the current budget process which we in our Government are currently using to arrive at the money which we will appropriate and spend in any given fiscal year.

To start with, the President comes to this body in his State of the Union Message, addresses the body, and at that time or shortly thereafter submits to the Congress his budget request. That budget request is typically based upon projections set forth by the Office of Management and Budget. Those projections are developed within the executive branch.

When he submits that budget request to the Congress there is absolutely no action required by this or the other body of Congress on his budget request. We have our own budget process wherein we developed a concurrent budget resolution. In order to develop the concurrent budget resolution we rely upon the—rather than the Office of Management and Budget, we rely upon the Congressional Budget Office.

Historically, if you will look over the past decade, the average of both of these different bodies or entities, analyzing the budget, they have averaged an error of \$45 billion annually in either over-estimated revenues or underestimated expenditures. We in Congress, once we ignore the President's budget and establish our own concurrent budget resolution, use that budget resolution for the most part to guide our authorizations and appropriations.

However, we oftentimes even waive the budget agreement itself or we waive the budget law, the Budget Enforcement Act, and we simply ignore our own budget to pass emergency spending bills which we pretend simply do not exist within the budget because it is an emergency.

The President, with regard to our budget process, since we oftentimes ignore his, the President is forced to use one of only two other resources which he has to counter what the Congress chooses to do in spending. He may veto an authorization or appropriation bill, but he must veto it in total. We have only 13 appropriation bills whereby we appropriate all the money for the operation of the Government, the appropriated funds. We do have unappropriated funds which we simply do not even deal with, for the most part, in our resolution process.

The President seldom uses this veto power for appropriations, although he has it. He has one other tool which he also seldom uses but is also somewhat ineffectual in that he can request a rescission of appropriated funds.

Like the budget message that the President submits us, we have no requirement to act upon the President's rescission, and if we do

not act within 45 days it simply goes away. We then, from appropriated money—the executive branch spends that money. Actual receipts and outlays historically have resulted in deficits growing higher and higher every year, between slightly over \$300 billion for this fiscal year, and our response to that is to turn around, as we will in March of this year, and vote to increase the limitation on public debt to allow the country to continue to borrow more and more money.

We now are over \$4 trillion of debt for our children and our grandchildren. We do go through a budget reconciliation process, but that process is not designed to determine what we did in actuality and fix it. That process is used to revise our next year's projections and targets for our concurrent budget resolution in the following year.

That is our current budget process. What the bill would do that I have filed today is outlined in this chart in red. Let me briefly go through these steps and then explain in somewhat more detail each of the specific titles or provisions of this legislation.

First of all, when the President submits his budget request this legislation would require that that budget be balanced in outlays and expenditures, or outlays and receipts. He submits a balanced budget request to the Congress. The other new part is we must vote on that budget request without substantial change.

The President deserves the vote. We do not have to adopt the President's budget request. We still would retain the authority to amend or substitute our own budget as we develop a concurrent budget resolution. But our concurrent budget resolution would also have to set forth a balanced budget wherein outlays do not exceed receipts.

There are several other changes that this bill would make to the process. It would shift from a 1-year cash budget to a 2-year biennial budget where we budget on a 2-year cycle rather than one. We would go to an operating and capital budget rather than a cash budget. We would create zero-based budgeting or incremental budgeting whereby we eliminate current services budget where you simply start with what we spent last year and add to it.

We would also, through the authorization and oversight process, establish sunset laws which would require us at least once every 10 years to analyze, oversee and reauthorize all Federal programs. In order to make that analysis through the reauthorization or oversight process, we would also create what are called performance standards that would set forth criteria. It would set forth goals and criterias whereby we can judge those programs to determine whether they are effectively operating and whether or not we should reauthorize those.

From our budget resolution, therefore, we continue with an authorization and an appropriation process. There are some, by the way, and let me divert for one moment, who would suggest that we eliminate the appropriation process. That could be done under this bill. It is not eliminated in this bill because that creates a turf battle inside the House and the Senate in taking away power which Members of the House and the other body have acquired through their position and seniority. So rather than fighting that battle, this process leaves the appropriation committees intact, although

under this process it would not be necessary to continue a separate appropriation process. The authorization and oversight process could in fact appropriate the money as well. The appropriation process would still be subject to a veto by the President with the requirement of a two-thirds override.

But this legislation would create another new provision, enhanced or expedited rescission for the President. Many people have called for a line-item veto. I, among others, believe that a line-item veto would be unconstitutional as currently considered. I also am concerned that a line-item veto as such may in fact shift too much of the balance of power, the power of the purse, from the Congress where the Constitution places it, to the President. Therefore, we have sought to find an alternative which would be as effective but still be constitutional.

The alternative we selected is the expedited rescission process. The difference between this and the current rescission process is that the President could line item any portion within the appropriations bills and request a specific rescission of that item, any portion of it or all of it, send it back to us, and we would be required to vote on that rescission request, each separate rescission request. That would give the President the opportunity to line item those areas of pork, those areas of inefficient spending, send it back to us, and we would have to stand up and cast our vote in favor of continuing to pay for the individual who is paid \$75,000 a year to watch catsup run down a board. So this would effectively eliminate those kinds of pork barrel and inefficient programs.

At this point there are some other significant changes, and those changes, by the way, are substantive changes of the process which provide us the mechanisms to analyze and evaluate the most appropriate areas. We have a very difficult decision in this government, and that is to determine how to spread very scarce resources. What is the highest priority for those scarce resources? That is what these provisions are designed for, to allow us the mechanism to set those priorities.

Assuming that we do not properly estimate our income and our outlays and we find that at the end of the year that our total receipts and outlays have created a real deficit, what do we do? This brings the President and the Congress together in resolving that deficit through true look-back and real budget reconciliation. The President, through the OMB, would submit to us on a regular basis reports of actual receipts and outlays throughout the current operation of the fiscal year. Using that information, we will know at any given period of time whether we are ahead of or behind those projected revenues and outlays or outlays and income. So we will have an idea as we go what the deficit is. It does not occur all at once on October 1 when we find out we spent more than we brought in.

What happens if we do spend more than we brought in? First of all, the President is required under this new statutory scheme to recommend to the Congress where to cut additional spending or where to raise revenues in order to resolve that actual deficit for the fiscal year which just ended. So he submits his recommendations. Or the President may say golly, we are in a war, or we are in a depression, or for some reason we cannot balance the budget;

therefore, I recommend that you, Congress, waive the requirement to balance the budget. So the President would lay on the table to us his recommendation of whether you cut additional spending, you raise additional taxes, or you waive the requirement.

We would be required in Congress to provide, by law, for either spending cuts or tax increases to resolve that true budget deficit. That law, if we do something the President does not agree with, that law would be subject to a Presidential veto. In other words, we are going to have to vote on it, the other body is going to have to vote on it, and the President is going to have to sign it. Or, we can provide by law for a waiver of this statutory requirement, which again is subject to a veto by the President. If he disagrees, if he says no, do not waive that requirement, I recommend you cut additional spending here or raise revenues there, he can veto it, and we would have to override that veto by a two-thirds majority. So again it brings the President and the Congress together in identifying how to provide for a repayment of that deficit, either through cuts or taxes or exempting from a waiver. If we exempt ourselves and say we will waive it, then and only then do we get to an increase of the public debt limitation.

Finally, if in fact, as many of the people out there believe, that this city is in gridlock, that this government is in gridlock, that we cannot act, that they simply say it is too hard for us to agree, we cannot make these tough choices, if that occurs and we decide to go home without either resolving the deficit through additional cuts or taxes, or waiving it based upon some national emergency criteria, we would then face a sequester. Fifteen days after we adjourn there would be a hard cut, a hard sequester to cover the amount by which we exceeded in expenditures the revenues that we brought in in that prior fiscal year.

That is the outline. Let me briefly explain several of these specific provisions beginning with the budget enforcement which we have just spoken about. A significant cause of our enormous budget deficit is that attention is focused almost exclusively on budget projections instead of the level of deficits actually incurred. This allows the President and Congress to appear to be making progress on bringing down the deficit by looking at previous years' expenditures, by rosy forecasts and scenarios of next year's revenues when, in fact, the deficit continues to increase year after year.

A related problem is that any balanced-budget amendment or Gramm-Rudman type deficit target will probably fail due to manipulation of projected outlays and receipts, if you do not have true reconciliation with an enforcement mechanism.

To overcome these problems, title I of this bill provides that the budget must be balanced in actuality, not just in the projection, by fiscal year 2000. If there is an actual deficit, Congress and the President are required to enact reconciliation legislation to make up for the shortfall or provide by law for a waiver of the balanced budget requirement.

If no such action is taken, then sequestration takes place automatically in an amount to equal the actual deficit incurred in the previous fiscal year. This is the section of the bill which requires the President to submit a balanced budget, requires the Congress to enact a concurrent budget resolution providing for a balanced

budget, requires the Office of Management and Budget to give us statements of monthly or quarterly projections of actual receipts and outlays, and a statement of the actual deficit at the end of the fiscal year, and requires for a repayment through either cuts in spending or tax increases through the reconciliation process or a waiver, both of which are subject to Presidential veto.

This lookback enforcement, backed up by the hard sequester, would, indeed provide us the mechanism necessary to make those hard choices and to actually balance the budget.

Now, the second title of the bill dealing with biennial budgets deals with the problem wherein our annual budget and appropriation process is unduly repetitive and so dominates congressional time and energy that insufficient attention is paid to authorization and oversight functions. By use of a biennial budget, a 2-year budget, we would overcome much of this problem. Confining budget and appropriations actions to the first term of Congress would encourage greater long-term budget planning and would allow more time for a thorough congressional reevaluation of the effectiveness of Federal programs and agencies.

Midcourse tax and spending corrections are allowed in the second fiscal year to adapt to changing economic and policy conditions. This also helps us eliminate the yearend binge spending which has become so prevalent throughout Federal agencies where, at the end of the fiscal year, you have to spend everything in your budget because next year we are starting fresh with what you spent last year plus, and this, combined with our incremental budgeting, would eliminate that binge spending. So this is the title of the bill that provides for a 2-year budget cycle, the biennium.

During the first session of Congress in that 2-year cycle, Congress receives the President's budget suggestions. They enact a concurrent budget resolution. They enact all 13 appropriation bills, and they complete reconciliation legislation that year. The budget resolution and appropriation bills are adopted for a 2-year period of time, and during the second session of Congress, the Congress would enact all necessary reauthorization legislation, and here we will incorporate the sunset laws that we get to in a moment.

They would conduct oversight hearings. They would also revise the congressional budget resolution, if necessary, and would be allowed to pass supplemental appropriations and rescissions in order to truly make the best decisions in each fiscal year so that at the end of the biennium we actually have a balanced budget.

Now, the third title of this bill is the title which creates a unified operating and capital budget. Adoption of a capital budgeting requirement would allow budgeting and appropriations decisions to reflect more accurately the long-term value of capital expenditures. It would also promote more efficient lease-versus-purchase decisions for capital items by requiring a net-present-value comparison between the options of leasing equipment or real property and acquiring that equipment or real property. So this is the title of the bill which provides for a unified budget consisting of an operating and capital budget.

Those budgets would be presented separately for total funds, Federal funds, and trust funds. It would define capital and physical assets, and it creates an asset consumption charge which is equal

to the cost of the asset allocated out over the useful life of the asset. This simply is amortizing the cost of assets with a useful life more than the fiscal year, allocating that cost over the actual useful life.

Outlays for capital assets in this balanced budget requirement would be calculated by using only the asset consumption charge and an allocated portion of the net Federal debt for the acquisition of that asset. This simply acknowledges the typical budgeting process that every home uses. You do not go out and buy a house for cash. You mortgage your home, and then you budget into your monthly payments the cost of paying off that mortgage which includes both the cost of the principal that you borrowed and the interest attributed to that particular month or year. This would do the same thing in our budget.

Each department would be required to analyze the efficiency of leasing or purchasing all proposed real estate and equipment capital expenditures over \$10 million, again, designed to help us both account more appropriately for expenditures of funds for assets that last more than 1 year, more than 3 years actually, and also to more appropriately determine whether to acquire by purchase or simple lease those very expensive long-term assets.

In title IV, we create sunset authority to provide for automatic congressional review at least once every 10 years of most Government spending programs. It would also provide for mandatory reauthorization of major tax expenditures at least once every 10 years. The goal is determination of obsolete or underperforming programs. This is the section where we require each Government program to be reauthorized at least once every 10 years, and we provide an exception only for interest on the debt. We cannot avoid that, the administration of justice, which we need to continue to ensure justice and the administration of justice, the third body of government, and payments of IRS refunds.

This sunset authority would limit authorization periods for any program to 10 years and would bar appropriation of any program which has not been reauthorized during the reauthorization cycle.

It sets up a specified schedule of sunset dates so that in the second year of each biennium we would be conducting our authorization and oversight activities wherein we would be looking at each area of Government spending to determine whether or not it justifies reauthorization. This also requires us not only to look at spending programs but tax-expenditure programs such as investment tax credit, et cetera, which are oftentimes made permanent in the code but oftentimes permanent expenditures are difficult to analyze the continued effectiveness.

Therefore we would require an inventory of all tax expenditures with a cost of at least \$1 billion and require reauthorization of those expenditures at least once every 10 years. Title V deals with the expedited rescission authority to provide a new congressional procedure for handling Presidential rescission requests. This forces Congress to take an affirmative vote on each Presidential spending rescission request within a specified timetable. It requires a separate vote on each item of proposed Presidential rescission.

As a result, individual spending items are more likely to be considered on their merit instead of being lumped together with a

broad appropriations bill. At the same time, this approach avoids the minority rule which would result from a line-item veto and a two-thirds' override provision.

This title allows the President to propose rescissions of specific spending items within appropriation bills. Each such request may be for all or any part of any budget authority approved in an appropriation bill. The President would be required to submit any such rescission request within 10 days of signing an appropriation bill. Each rescission request would require a separate message from the President. Within 10 days, each rescission request would be required to be reported out of the Appropriations Committee of the House where that bill initiated. Within 10 days after it came out of committee, a final floor vote would be required on each rescission request.

If approved by the House of Congress wherein that particular bill originated, the rescission request would be referred to the other House, where you would follow the same procedure, and amendments to Presidential rescission requests would be prohibited. I believe this would accomplish the same beneficial purposes of the line-item veto without the constitutional questions and without the supermajority and, therefore, the minority rule on spending issues.

Title VI requires performance based budgeting. With increasing pressure to cut spending, it is critical to evaluate the success of existing programs to determine which could be most easily eliminated. This title provides for the establishment and evaluation of performance standards and goals for expenditures, including tax expenditures, in the Federal budget to be prepared by the executive branch.

OMB would be required to promulgate regulations requiring each department and agency to establish a performance standard and goals for each major expenditure category. That plan would include the establishment of major expenditure categories, the establishment of performance indicators to be used to define the measure of outputs and of product services, the results of such expenditures, to establish performance standards and goals, to define the measure of specific service or product to be achieved or produced in that expenditure; and then compare actual program results with original performance standards and goals to determine the effectiveness and efficiency of that particular program.

By December 31 of each year, each department or agency head would submit a report to the President and Congress on program performance for the previous year. The Office of Management and Budget would also be required to prepare a plan and report, as outlined above, for all tax expenditures at an annual cost of over \$1 billion.

Finally, the last title of this bill, title VII, creates incremental-based budgeting, to eliminate a current-services budget approach which assumes that programs are extended at prior years' funding levels plus an adjustment for inflation and population growth, and any expansion of the program that we choose to allow, the executive branch would be required to formulate incremental budget plans with decreasing levels of spending. These plans will serve as a menu for Presidential budget cutting.

This provision deletes the provision that requires the President to submit a current-services budget each year. In the alternative, it would require the formulation of budgets with lower—that is right, actual lower—spending levels.

Officers and employees who submit budgets to the head of each department or agency would be required to submit at least two incremental budgets, of which one incremental budget would reflect a spending cut of at least 5 percent lower than the prior fiscal year. The other, second, budget required to be submitted to that agency head would reflect spending cuts of at least 15 percent lower than the prior fiscal year.

Then each department head or agency head would be required to submit at least one incremental budget to the Office of Management and Budget, with spending at least 10 percent lower than the previous fiscal year.

As before and currently, the Office of Management and Budget would review various departmental budgets and, after consultation with the President, would submit one budget to the Congress for its consideration.

Whenever OMB makes its first preliminary report that we would have a deficit in that fiscal year, then the President, by October 15, would have to submit to Congress a report that would either recommend specific changes in outlays or revenues or recommend a waiver. The way he generates the information necessary to budget in the first place and to recommend spending cuts would be to look to these incremental budgets from each agency, from each department, wherein they have identified, if they had to cut, where would they cut spending.

This is what a business, this is what General Motors, Ford Motor, or ABC Electronic would do if they were spending more than they are bringing in every year.

In summary, the legislation that I have filed today both changes and fixes the process, first by a statement in the Constitution requiring us to balance the budget and, second, an actual budget process reform bill wherein we correct the problems of our current budget process and provide a mechanism whereby we actually can get to balance, and if we do not, puts our fingerprints and the President's fingerprints all over it so that there is real accountability to the people for why we have not or will not balance the budget.

Without that accountability, without these changes, I fear that we will continue to play the kinds of political games that I have seen both in the last 2 years of my time in Congress and before that, which is one of the driving factors that made me stand up and say to the people in my district, "We can and must do better."

It is possible to balance the Federal budget. It is not possible to do so with smoke and mirrors. It is not possible to do so simply with processed legislative reform. The only way we balance the budget is by either cutting spending or increasing revenues, and those are tough choices. But that is what we were elected to do, to make those tough choices, to allocate those scarce resources among the priorities. Our problem is we are providing our people with more Government services than they are willing to pay for.

We cannot continue to do that. I would urge bipartisan consideration of this approach. This approach has been developed with ideas from past decades and current ideas. It has been developed with ideas from both sides of the aisle. It has been developed through bipartisan effort, and I urge bipartisan consideration.

Now, we are going to be using three different approaches to try to bring this budget reform to a vote. First, through stand-alone legislation filed here today we will attempt to cosponsor it. We will attempt to get it through the committee process. We will attempt to get a vote on the floor of the House to adopt this package.

Second, there is another alternative. We will this year have a budget reconciliation package. That package from the President and the leadership of the House will include the President's economic plan. It will include spending cuts. It will include revenue increases. It must include budget process and budget enforcement provisions.

We will be pushing within the reconciliation package to adopt this or similar budget reform legislation.

Finally, currently under order of the House and the Senate, a joint committee of this Congress is meeting to consider process reform whereby we would change the way this body and the other House perform the Nation's business. Part of that process reform must be budget process reform and we will be submitting this proposal to the Committee on Reform of the Congress and ask them to consider these changes as a recommendation of reform to the full body.

By using these three separate avenues, we the sponsors of this bill hope to get a real honest bipartisan consideration of this legislation.

I urge you to support it. This is an accountability provision. We are losing credibility and have lost much credibility with the people at home. The voters wonder whether or not we have the fortitude to gradually make the tough decisions. With this accountability bill, with this truth in budgeting bill, I believe we are provided with the mechanisms to do so.

I would urge my colleagues, look at this bill. Consider this bill. If you have ideas for changing it to make it better, let us make it better, but let us pass it, because as the President said, the worse thing we can do is nothing at all. We must revise the system and I urge you to do so.

With that, Mr. Speaker, I yield back the balance of my time.

103D CONGRESS
1ST SESSION

H. R. 1138

To restructure the Federal budget process.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 24, 1993

Mr. ORTON (for himself, Mr. BACCHUS of Florida, Mr. CONDIT, Mr. INGLIS of South Carolina, Mr. MCCOLLUM, Mr. PETERSON of Minnesota, Mr. POSHARD, Mr. SHEPHERD, Mr. STENHOLM, and Mr. ZELIFF) introduced the following bill; which was referred jointly to the Committees on Government Operations, Rules, and Public Works and Transportation

A BILL

To restructure the Federal budget process.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Comprehensive Budget
5 Process Reform Act of 1993”.

1 **TITLE I—BALANCED BUDGET**
2 **WITH ENFORCEMENT; MAN-**
3 **DATORY CONSIDERATION OF**
4 **PRESIDENT'S BUDGET**

5 **SEC. 101. SUBMISSION OF BALANCED BUDGET BY THE**
6 **PRESIDENT.**

7 Section 1105 of title 31, United States Code, is
8 amended by inserting at the end the following new sub-
9 sections:

10 “(g) Any budget submitted to Congress pursuant to
11 subsection (a) for the 1996–1997 biennium shall be a
12 budget for that biennium and the ensuing biennium that
13 provides for a balanced budget for the 1998 fiscal year
14 and subsequent fiscal years. Any budget submitted to Con-
15 gress pursuant to subsection (a) for a fiscal year after the
16 1996–1997 biennium shall be a budget that provides for
17 a balanced budget for that fiscal year and the ensuing
18 fiscal years.”.

19 **SEC. 102. REPORTING OF BALANCED BUDGETS.**

20 Section 301 of the Congressional Budget Act of 1974
21 is amended by inserting at the end the following new sub-
22 section:

23 “(j) **REPORTING OF BALANCED BUDGETS.**—Any con-
24 current resolution on the budget for the 1996–1997 bien-
25 nium as reported by the Committee on the Budget of each

1 House, shall set forth appropriate levels for the biennium
2 beginning on October 1 of the calendar year in which it
3 is reported and for the ensuing biennium for the matters
4 described in section 301(a) that provides for a balanced
5 budget by the 1998 fiscal year and the ensuing fiscal
6 years. Any concurrent resolution on the budget for the
7 1998–1999 biennium or any ensuing biennium, as re-
8 ported by the Committee on the Budget of each House,
9 shall set forth appropriate levels for the biennium begin-
10 ning on October 1 of the calendar year in which it is re-
11 ported and for each of the ensuing biennium for the mat-
12 ters described in section 301(a) that provides for a bal-
13 anced budget for fiscal year 1998 and the ensuing fiscal
14 years.

15 “(k) CONSIDERATION OF BALANCED BUDGETS.—It
16 shall not be in order in the House of Representatives or
17 the Senate to consider any concurrent resolution on the
18 budget for the 1996–1997 biennium that does not provide
19 for a balanced budget by fiscal year 1998 and the ensuing
20 fiscal years. It shall not be in order in the House of Rep-
21 resentatives or the Senate to consider any concurrent reso-
22 lution on the budget for the 1998–1999 biennium or any
23 ensuing biennium that does not provide for a balanced
24 budget for fiscal year 1998 and the ensuing fiscal years.”.

1 **SEC. 103. PROCEDURE IN THE HOUSE OF REPRESENTA-**
2 **TIVES.**

3 Section 305(a) of the Congressional Budget Act of
4 1974 is amended by inserting at the end the following:

5 “(8)(A) If the Committee on Rules of the
6 House of Representatives reports any rule or order
7 providing for the consideration of any concurrent
8 resolution on the budget for a biennium, then it
9 shall also, within the same rule or order, provide
10 for—

11 “(i) the consideration of the text of any
12 concurrent resolution on the budget for that bi-
13 ennium reported by the Committee on the
14 Budget of the House of Representatives pursu-
15 ant to section 301(j); and

16 “(ii) the consideration of the text of each
17 concurrent resolution on the budget as intro-
18 duced by the majority leader pursuant to sub-
19 paragraph (B);

20 and such rule or order shall assure that a separate
21 vote occurs on each such budget.

22 “(B) The majority leader of the House of Rep-
23 resentatives shall introduce a concurrent resolution
24 on the budget reflecting, without substantive revi-
25 sion, the budget submitted by the President pursu-

1 ant to section 1105(g) of title 31, United States
2 Code, as soon as practicable after its submission.”.

3 **SEC. 104. PROCEDURE IN THE SENATE.**

4 Section 305(b) of the Congressional Budget Act of
5 1974 is amended by inserting at the end the following:

6 “(7) Notwithstanding any other rule, it shall al-
7 ways be in order in the Senate to consider an
8 amendment to a concurrent resolution on the budget
9 for a biennium comprising the text of any budget
10 submitted by the President for that biennium as de-
11 scribed in section 1105(g) of title 31, United States
12 Code.”.

13 **SEC. 105. OMB DEFICIT FORECAST.**

14 (a) OMB REPORT OF ESTIMATED DEFICIT.—Not
15 later than September 1 of each calendar year, the Director
16 of the Office of Management and Budget shall submit to
17 Congress a report setting forth a current estimate of the
18 surplus or deficit in the budget for the Federal Govern-
19 ment for the fiscal year ending on September 30 of that
20 calendar year.

21 (b) OMB REPORT OF ACTUAL DEFICIT.—Not later
22 than October 15 of each calendar year, the Director of
23 the Office of Management and Budget shall submit to
24 Congress a report setting forth the actual surplus or defi-

1 cit in the budget for the Federal Government for the fiscal
2 year ending on September 30 of that calendar year.

3 (c) **CALCULATIONS OF DEFICITS.**— Any calculation
4 made by OMB for a fiscal year to carry out this section
5 shall not include any spending decreases or revenue in-
6 creases made pursuant to section 106 with respect to any
7 prior fiscal year.

8 **SEC. 106. REPAYMENT OF PRIOR BIENNIUM'S DEFICIT.**

9 (a) **RECONCILIATION LEGISLATION.**—If the report
10 sent to Congress under section 105(b) for a fiscal year
11 indicates that there was a deficit in that fiscal year, then,
12 before the end of that session of Congress, Congress shall
13 either—

14 (1) eliminate that deficit through the enactment
15 of reconciliation legislation; or

16 (2) waive the requirement to eliminate that def-
17 icit through the enactment of legislation (which shall
18 be approved on final passage by each House of Con-
19 gress by a recorded vote) the sole purpose of which
20 is to waive that requirement for that biennium.

21 (b) **LOOK-BACK ENFORCEMENT.**—If Congress ad-
22 journs to end a session without complying with subsection
23 (a) for a fiscal year, then there shall be a sequestration
24 to offset the amount of the deficit for that fiscal year. The
25 amount required to be sequestered shall be obtained by

1 reducing all accounts of the Government by a uniform per-
2 centage, except that no reduction of—

3 (1) payments for net interest (all of major func-
4 tional category 900); or

5 (2) benefits payable under the old-age, survi-
6 vors, and disability insurance program established
7 under title II of the Social Security Act;

8 shall be made. This sequestration shall be implemented
9 by the issuance of an order by the President. This order
10 shall be effective on issuance.

11 **SEC. 107. EFFECTIVE DATE.**

12 This title and the amendments made by it shall be-
13 come effective for the concurrent resolution on the budget
14 for the 1996–1997 biennium and shall be fully reflected
15 in the budget for the 1996–1997 biennium required to be
16 submitted by the President in 1995 as required by section
17 1105(a) of title 31, United States Code.

18 **TITLE II—BIENNIAL BUDGET**

19 **SEC. 201. FINDINGS AND PURPOSE.**

20 (a) FINDINGS.—The Congress finds and declares
21 that the present annual Federal budgeting process—

22 (1) allows insufficient time for the fulfillment
23 by the Congress of its legislative and oversight
24 responsibilities;

1 (2) allows insufficient time for the review and
2 consideration by the Congress of authorizing legisla-
3 tion, budget resolutions, and appropriation bills and
4 resolutions and other spending measures;

5 (3) allows insufficient time for the evaluation of
6 costly and complicated Federal programs, and there-
7 by contributes to the unrestrained growth of the
8 Federal budget; and

9 (4) allows insufficient time for agencies and
10 State and local governments to plan for the imple-
11 mentation of programs.

12 (b) PURPOSE.—It is the purpose of this title—

13 (1) to establish a process through which the
14 Federal budget will be adopted for a two-year
15 period;

16 (2) to improve congressional control over the
17 Federal budget process;

18 (3) to streamline the requirements of the budg-
19 et process in order to promote better accountability
20 to the public;

21 (4) to improve the legislative and budgetary
22 processes by providing additional time for congres-
23 sional oversight and other vital legislative activities;

24 (5) to provide stability and coherence for recipi-
25 ents of Federal funds; and

(6) to implement other improvements in the Federal budget process.

SEC. 202. REVISION OF TIMETABLE.

Section 300 of the Congressional Budget Act of 1974 (2 U.S.C. 631) is amended to read as follows:

"TIMETABLE

"SEC. 300. The timetable with respect to the Congressional budget process for any Congress (beginning with the One Hundred Third Congress) is as follows:

"First Session

"On or before:	Action to be completed:
First Monday in February	President submits budget recommendations.
February 15	Congressional Budget Office submits report to Budget Committees.
February 25	Committees submit views and estimates to Budget Committees.
March 31	Senate Budget Committee reports concurrent resolution on the biennial budget.
April 15	Congress completes action on concurrent resolution on the biennial budget.
May 15	Biennial appropriation bills may be considered in the House.
June 10	House Appropriations Committee reports last biennial appropriation bill.
September 1	OMB submits report setting forth estimate of surplus/deficit for current fiscal year.
September 30	Congress completes action on reconciliation legislation.
September 30	Congress completes action on biennial appropriation bills.
October 1	Biennium begins.
October 15	OMB submits report setting forth actual surplus/deficit for fiscal year ending September 30.

"Second Session

"On or before:	Action to be completed:
May 15	Congressional Budget Office submits report to Budget Committees.
September 1	OMB submits report setting forth estimate of surplus/deficit for current fiscal year.
October 15	OMB submits report setting forth actual surplus/deficit for fiscal year ending September 30.

"Second Session—Continued

The last day of the session Congress completes action on bills and resolutions authorizing new budget authority for the succeeding biennium."

1 **SEC. 203. AMENDMENTS TO THE CONGRESSIONAL BUDGET**
2 **AND IMPOUNDMENT CONTROL ACT OF 1974.**

3 (a) AMENDMENT OF THE CONGRESSIONAL BUDGET
4 ACT OF 1974.—Whenever in this section an amendment
5 or repeal is expressed in terms of an amendment to, or
6 repeal of, a section or other provision, the references shall
7 be to a section or other provision of the Congressional
8 Budget Act of 1974.

9 (b) DECLARATION OF PURPOSE.—Section 2(2) (2
10 U.S.C. 621(2)) is amended by striking "each year" and
11 inserting "biennially".

12 (c) DEFINITIONS.—

13 (1) Section 3(4) (2 U.S.C. 622(4)) is amended
14 by striking "fiscal year" each place it appears and
15 inserting "biennium".

16 (2) Section 3 (2 U.S.C. 622) is further amend-
17 ed by adding at the end thereof the following new
18 paragraph:

19 "(11) The term 'biennium' means the period of
20 2 consecutive fiscal years beginning on October 1 of
21 any odd-numbered year."

22 (d) DUTIES OF CBO.—

1 (1) Section 202(f)(1) (2 U.S.C. 602(f)(1)) is
2 amended—

3 (A) by striking “February 15 of each
4 year” and inserting “February 15 of each odd-
5 numbered calendar year”;

6 (B) by striking “the fiscal year commenc-
7 ing” and inserting “each fiscal year in the bien-
8 nium commencing”;

9 (C) by striking “such fiscal year” the first
10 place it appears and inserting “such biennium”;
11 and

12 (D) by striking “such fiscal year” the sec-
13 ond place it appears and “each fiscal year in
14 such biennium”.

15 (2) Section 202(f) (2 U.S.C. 602(f)) is further
16 amended—

17 (A) in paragraph (2) by striking “The Di-
18 rector shall from time to time” and inserting
19 “On May 15 of each even numbered year and
20 at such other times as he or she deems
21 appropriate, the Director shall”.

22 (B) in paragraph (3)—

23 (i) by striking “January 15” and in-
24 serting “February 15”,

12

1 (ii) by striking “each year” and in-
2 serting “each even-numbered calendar
3 year”,

4 (iii) by striking “the fiscal year end-
5 ing September 30 of that calendar year” in
6 clause (A) and inserting “either fiscal year
7 in the biennium beginning October 1 of the
8 preceding calendar year”,

9 (iv) by striking “the fiscal year ending
10 September 30 of that calendar year” in
11 clause (B) and inserting “either fiscal year
12 of such biennium”, and

13 (v) by striking “fiscal year beginning
14 October 1 of that calendar year” and in-
15 serting “succeeding biennium”.

16 (e) BIENNIAL CONCURRENT RESOLUTION ON THE
17 BUDGET.—

18 (1) Section 301(a) (2 U.S.C. 632(a)) is
19 amended—

20 (A) by striking “April 15 of each year”
21 and inserting “April 15 of each odd-numbered
22 year”;

23 (B) by striking “the fiscal year beginning
24 on October 1 of such year” the first place it ap-

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1 pears and inserting “the biennium beginning on
2 October 1 of such year”;

3 (C) by striking “the fiscal year beginning
4 on October 1 of such year” the second place it
5 appears and inserting “each fiscal year in such
6 period”; and

7 (D) by striking “each of the two ensuing
8 fiscal years” and inserting “each fiscal year in
9 the succeeding biennium”.

10 (2) Section 301(b) (2 U.S.C. 632(b)) is
11 amended—

12 (A) in the matter preceding paragraph (1)
13 by inserting “for a biennium” after “concurrent
14 resolution on the budget”; and

15 (B) in paragraph (3) by striking “for such
16 fiscal year” and inserting “for either fiscal year
17 in such biennium”.

18 (3) Section 301(d) (2 U.S.C. 632(d)) is amend-
19 ed by striking “Within 6 weeks after the President
20 submits a budget under section 1105(a) of title 31,
21 United States Code” and inserting “On or before
22 February 25 of each odd-numbered year”.

23 (4) Section 301(e) (2 U.S.C. 632(e)) is
24 amended—

14

1 (A) in the first sentence by striking “fiscal
2 year” and inserting “biennium”;

3 (B) by inserting between the second and
4 third sentences the following new sentence: “On
5 or before March 31 of each odd-numbered year
6 the Committee on the Budget of each House
7 shall report to its House the concurrent resolu-
8 tion on the budget referred to in subsection (a)
9 for the biennium beginning on October 1 of
10 that year.”; and

11 (C) in paragraph (6)—

12 (i) by striking “five” and inserting
13 “four”,

14 (ii) by striking “such fiscal year” and
15 inserting “the first fiscal year of such bien-
16 nium,”, and

17 (iii) by striking “such period” and in-
18 serting “such four-fiscal-year period”.

19 (5) Section 301(f) (2 U.S.C. 632(f)) is amend-
20 ed by striking “fiscal year” each place it appears
21 and inserting “biennium”.

22 (6) The section heading of section 301 is
23 amended by striking “annual” and inserting “bien-
24 nial”.

1 (7) The table of contents set forth in section
2 1(b) is amended by striking “Annual” in the item
3 relating to section 301 and inserting “Biennial”.

4 (f) COMMITTEE ALLOCATIONS.—

5 (1) Paragraphs (1) and (2) of section 302(a) (2
6 U.S.C. 633(a)) are amended—

7 (A) by inserting “for a biennium” after
8 “budget” the first place it appears in each such
9 paragraph; and

10 (B) by inserting “for each fiscal year in
11 such biennium” after “estimated allocation”
12 each place it appears.

13 (2) Section 302(c) (2 U.S.C. 633(c)) is
14 amended—

15 (A) by striking “for a fiscal year” each
16 place it appears and inserting “for either fiscal
17 year in a biennium”; and

18 (B) by striking “for such fiscal year” each
19 place it appears and inserting “for such bien-
20 nium”.

21 (3) Section 302(f)(1) (2 U.S.C. 633(f)(1)) is
22 amended—

23 (A) by striking “for a fiscal year” and in-
24 serting “for a biennium”, and

(B) by striking “such fiscal year” each place it appears in the matter preceding subparagraph (A) and inserting “a fiscal year in such biennium”.

(4) Section 302(f)(2) is amended—

(A) by striking “for a fiscal year” and inserting “for a biennium”,

(B) by striking “for such fiscal year” and inserting “for a biennium”, and

(C) by striking “4 succeeding” and inserting “3 succeeding”.

(g) SECTION 303 POINT OF ORDER.—

(1) Section 303(a) (2 U.S.C. 634(a)) is amended by striking “fiscal year” each place it appears and inserting “biennium”.

(2) Section 303(b) (2 U.S.C. 634(b)) is amended—

(A) in subparagraphs (A) and (B) of paragraph (1) and paragraph (2) by striking “the fiscal year” each place it appears and inserting “biennium”; and

(B) in paragraph (1) by striking “any calendar year” and inserting “any odd-numbered calendar year”.

1 (h) PERMISSIBLE REVISIONS OF CONCURRENT RES-
2 OLUTIONS ON THE BUDGET.—Section 304 (2 U.S.C. 635)
3 is amended—

4 (1) by striking “fiscal year” the first two places
5 it appears and inserting “biennium”;

6 (2) by striking “for such fiscal year”; and

7 (3) by inserting before the period “for such
8 biennium”;

9 (i) PROCEDURES FOR CONSIDERATION OF BUDGET
10 RESOLUTIONS.—Section 305(b)(3) (2 U.S.C. 636(b)(3))
11 is amended—

12 (1) by striking “the concurrent” and inserting
13 “a concurrent”; and

14 (2) by striking “fiscal year” and inserting
15 “biennium”.

16 (j) REPORTS AND SUMMARIES OF CONGRESSIONAL
17 BUDGET ACTIONS.—

18 (1)(A) Section 308(a)(1) (2 U.S.C. 639(a)(1))
19 is amended—

20 (i) in the matter preceding subparagraph
21 (A) by striking “fiscal year (or fiscal years)”
22 and inserting “biennium”,

23 (ii) in subparagraph (A) by striking “fiscal
24 year (or fiscal years)” and inserting “bien-
25 nium”, and

1 (iii) in subparagraph (C) by striking “such
2 fiscal year (or fiscal years)” and inserting
3 “such biennium”.

4 (B) Section 308(a)(2) is amended by striking
5 “fiscal year (or fiscal years)” and inserting “bien-
6 nium”.

7 (2) Section 308(b)(1) (2 U.S.C. 639(b)(1)) is
8 amended—

9 (A) by striking “each fiscal year covered
10 by a concurrent resolution on the budget” the
11 first place it appears and inserting “a bien-
12 nium”;

13 (B) by inserting “for such biennium” after
14 “concurrent resolution on the budget”; and

15 (C) by striking “the fiscal year preceding
16 the first fiscal year covered by the appropriate
17 concurrent resolution” and inserting “each fis-
18 cal year in the biennium preceding such bien-
19 nium”.

20 (3) Section 308(c) (2 U.S.C. 639(c)) is
21 amended—

22 (A) by striking “Five” in the subsection
23 heading and inserting “Four”;

1 (B) by striking "fiscal year" each place it
2 appears in the matter preceding paragraph (1)
3 and inserting "biennium"; and

4 (C) by striking "5 fiscal years" and insert-
5 ing "4 fiscal years".

6 (k) COMPLETION OF ACTION ON REGULAR APPRO-
7 PRIATION BILLS.—Section 309 (2 U.S.C. 640) is
8 amended—

9 (1) by inserting "of any odd-numbered calendar
10 year" after "July";

11 (2) by striking "annual" and inserting "regu-
12 lar"; and

13 (3) by striking "fiscal year" and inserting
14 "biennium".

15 (l) RECONCILIATION PROCESS.—

16 (1) Section 310(a) (2 U.S.C. 641(a)) is
17 amended—

18 (A) by striking "any fiscal year" in the
19 matter preceding paragraph (1) and inserting
20 "any biennium";

21 (B) in paragraph (1) by striking "such fis-
22 cal year" each place it appears and inserting
23 "each fiscal year in such biennium"; and

24 (C) in paragraph (2) by inserting "for each
25 fiscal year in such biennium" after "revenues".

20

1 (2) Section 310(e) (2 U.S.C. 641(e)) is
2 amended—

3 (A) by striking “20 hours” in paragraph
4 (2) and inserting “100 hours”; and

5 (B) by adding at the end thereof the fol-
6 lowing new paragraph:

7 “(3) It shall not be in order in the Senate or
8 the House of Representatives to consider any rec-
9 onciliation bill or resolution or any amendment
10 thereto or any conference report thereon which
11 changes any provision of law other than provisions
12 of law which—

13 “(A) provide new budget authority or
14 spending authority described in section
15 401(c)(2);

16 “(B) relate to revenues; or

17 “(C) specify the amount of the statutory
18 limit on the public debt.”.

19 (3) Section 310(f) (2 U.S.C. 641(f)) is
20 amended—

21 (A) by inserting “of any odd-numbered cal-
22 endar year” after “July”,

23 (B) by striking “fiscal year beginning on
24 October 1 of the calendar year to which the ad-
25 journment resolution pertains” and inserting

1 “biennium beginning on October 1 of such cal-
2 endar year”, and

3 (C) by striking “for such fiscal year” and
4 inserting “for such biennium”.

5 (m) SECTION 311 POINT OF ORDER.—

6 (1) Section 311(a)(1) (2 U.S.C. 642(a)) is
7 amended—

8 (A) by striking “for a fiscal year” and in-
9 serting “for a biennium”;

10 (B) by striking “such fiscal year” the first,
11 second, and third places it appears and insert-
12 ing “a fiscal year in such biennium”;

13 (C) by inserting “for such fiscal year”
14 after “outlays”;

15 (D) by striking “concurrent resolution on
16 the budget for such fiscal year” and inserting
17 “concurrent resolution on the budget for the bi-
18 ennium in which such fiscal year occurs”;

19 (E) by inserting “for such fiscal year”
20 after “revenues” the first place it appears; and

21 (F) by inserting “for such fiscal year”
22 after “set forth” the second place it appears.

23 (2) Section 311(b) (2 U.S.C. 642(b)) is
24 amended—

1 (A) by striking “such fiscal year” the first
2 place it appears and inserting “a biennium”;
3 and

4 (B) by striking “such fiscal year” the sec-
5 ond place it appears and inserting “either fiscal
6 year in such biennium”.

7 (n) BILLS PROVIDING NEW SPENDING AUTHOR-
8 ITY.—Section 401(b)(2) (2 U.S.C. 651(b)(2)) is amended
9 by striking “for such fiscal year” the second place it ap-
10 pears and inserting “for the biennium in which such fiscal
11 year occurs”.

12 (o) ANALYSIS BY CBO.—Section 403(a) (2 U.S.C.
13 653(a)) is amended—

14 (1) by striking “the fiscal year” in paragraph
15 (1) and inserting “each fiscal year in the biennium”;

16 (2) by striking “each of the 4 fiscal years fol-
17 lowing such year” in paragraph (1) and inserting
18 “each fiscal year in the succeeding biennium”;

19 (3) by striking “the fiscal year” in paragraph
20 (2) and inserting “each fiscal year in the biennium”;
21 and

22 (4) by striking “each of the four fiscal years
23 following such fiscal year” in paragraph (2) and
24 inserting “each fiscal year in the succeeding
25 biennium”.

1 **SEC. 204. AMENDMENTS TO TITLE 31, UNITED STATES**
2 **CODE.**

3 (a) DEFINITION.—Section 1101 of title 31, United
4 States Code, is amended by adding at the end thereof the
5 following new paragraph:

6 “(3) ‘biennium’ has the meaning given to such
7 term in paragraph (11) of section 3 of the Congres-
8 sional Budget and Impoundment Control Act of
9 1974 (2 U.S.C. 622(11))”.

10 (b) BUDGET CONTENTS AND SUBMISSION TO THE
11 CONGRESS.—

12 (1) So much of section 1105(a) of title 31,
13 United States Code, as precedes paragraph (1)
14 thereof is amended to read as follows:

15 “(a) On or before the first Monday in February of
16 each odd-numbered year, beginning with the One-Hun-
17 dred-and-Fourth Congress, the President shall transmit to
18 the Congress, the budget for the biennium beginning on
19 October 1 of such calendar year. The budget transmitted
20 under this subsection shall include a budget message and
21 summary and supporting information. The President shall
22 include in each budget the following:”.

23 (2) Section 1105(a)(5) of title 31, United
24 States Code, is amended by striking “the fiscal year
25 for which the budget is submitted and the 4 fiscal
26 years after that year” and inserting “each fiscal

1 year in the biennium for which the budget is submit-
2 ted and in the succeeding biennium”.

3 (3) Section 1105(a)(6) of title 31, United
4 States Code, is amended by striking “the fiscal year
5 for which the budget is submitted and the 4 fiscal
6 years after that year” and inserting “each fiscal
7 year in the biennium for which the budget is submit-
8 ted and in the succeeding biennium”.

9 (4) Section 1105(a)(9)(C) of title 31, United
10 States Code, is amended by striking “the fiscal
11 year” and inserting “each fiscal year in the
12 biennium”.

13 (5) Section 1105(a)(12) of title 31, United
14 States Code, is amended—

15 (A) by striking “the fiscal year” in sub-
16 paragraph (A) and inserting “each fiscal year
17 in the biennium”; and

18 (B) by striking “4 fiscal years after that
19 year” in subparagraph (B) and inserting “2 fis-
20 cal years immediately following the second fiscal
21 year in such biennium”.

22 (6) Section 1105(a)(13) of title 31, United
23 States Code, is amended by striking “the fiscal
24 year” and inserting “each fiscal year in the
25 biennium”.

1 (7) Section 1105(a)(14) of title 31, United
2 States Code, is amended by striking “that year” and
3 inserting “each fiscal year in the biennium for which
4 the budget is submitted”.

5 (8) Section 1105(a)(16) of title 31, United
6 States Code, is amended by striking “the fiscal
7 year” and inserting “each fiscal year in the bien-
8 nium”.

9 (9) Section 1105(a)(17) of title 31, United
10 States Code, is amended—

11 (A) by striking “the fiscal year following
12 the fiscal year” and inserting “each fiscal year
13 in the biennium following the biennium”;

14 (B) by striking “that following fiscal year”
15 and inserting “each such fiscal year”; and

16 (C) by striking “fiscal year before the fis-
17 cal year” and inserting “biennium before the
18 biennium”.

19 (10) Section 1105(a)(18) of title 31, United
20 States Code, is amended—

21 (A) by striking “the prior fiscal year” and
22 inserting “each of the 2 most recently com-
23 pleted fiscal years”;

24 (B) by striking “for that year” and insert-
25 ing “with respect to that fiscal year”; and

1 (C) by striking “in that year” and insert-
2 ing “in that fiscal year”.

3 (11) Section 1105(a)(19) of title 31, United
4 States Code, is amended—

5 (A) by striking “the prior fiscal year” and
6 inserting “each of the 2 most recently com-
7 pleted fiscal years”;

8 (B) by striking “for that year” and insert-
9 ing “with respect to that fiscal year”; and

10 (C) by striking “in that year” each place
11 it appears and inserting “in that fiscal year”.

12 (c) ESTIMATED EXPENDITURES OF LEGISLATIVE
13 AND JUDICIAL BRANCHES.—Section 1105(b) of title 31,
14 United States Code, is amended by striking “each year”
15 and inserting “each even-numbered year”.

16 (d) RECOMMENDATIONS TO MEET ESTIMATED DEFI-
17 CIENCIES.—Section 1105(c) of title 31, United States
18 Code, is amended—

19 (1) by striking “fiscal year for” each place it
20 appears and inserting “biennium for”;

21 (2) by inserting “or current biennium, as the
22 case may be,” after “current fiscal year”; and

23 (3) by striking “that year” and inserting “that
24 period”.

1 (e) STATEMENT WITH RESPECT TO CERTAIN
2 CHANGES.—Section 1105(d) of title 31, United States
3 Code, is amended by striking “fiscal year” and inserting
4 “biennium”.

5 (f) CAPITAL INVESTMENT ANALYSIS.—Section
6 1105(e) of title 31, United States Code, is amended by
7 striking “ensuing fiscal year” and inserting “biennium to
8 which such budget relates”.

9 (g) SUPPLEMENTAL BUDGET ESTIMATES AND
10 CHANGES.—

11 (1) Section 1106(a) of title 31, United States
12 Code, is amended—

13 (A) in the matter preceding paragraph (1)
14 by striking “fiscal year” and inserting “bien-
15 nium”;

16 (B) in paragraph (1) by striking “that fis-
17 cal year” and inserting “each fiscal year in
18 such biennium”;

19 (C) in paragraph (2) by striking “4 fiscal
20 years following the fiscal year” and inserting “2
21 fiscal years following the biennium”;

22 (D) by striking “future fiscal years” in
23 paragraph (3) and inserting “the 2 fiscal years
24 following the biennium for which the budget is
25 submitted”; and

1 (E) by striking “fiscal year” in paragraph
2 (3) and inserting “biennium”.

3 (2) Section 1106(b) of title 31, United States
4 Code, is amended by striking “the fiscal year” and
5 inserting “each fiscal year in the biennium”.

6 (h) YEAR-AHEAD REQUESTS FOR AUTHORIZING
7 LEGISLATION.—Section 1110 of title 31, United States
8 Code, is amended—

9 (1) by striking “fiscal year” and inserting “bi-
10 ennium (beginning on or after October 1, 1993)”,
11 and

12 (2) by striking “year before the year in which
13 the fiscal year begins” and inserting “second cal-
14 endar year preceding the calendar year in which the
15 biennium begins”.

16 (i) BUDGET INFORMATION ON CONSULTING SERV-
17 ICES.—Section 1114 of title 31, United States Code, is
18 amended—

19 (1) by striking “The” each place it appears and
20 inserting “For each biennium beginning with the bi-
21 ennium beginning on October 1, 1995, the”; and

22 (2) by striking “each year” each place it
23 appears.

1 **SEC. 205. TITLE AND STYLE OF APPROPRIATIONS ACTS.**

2 Section 105 of title 1, United States Code, is amend-
3 ed to read as follows:

4 **“§ 105. Title and style of appropriations Acts**

5 “(a) The style and title of all Acts making appropria-
6 tions for the support of the Government shall be as fol-
7 lows: ‘An Act making appropriations (here insert the ob-
8 ject) for the biennium ending September 30 (here insert
9 the odd-numbered calendar year).’”

10 “(b) All Acts making regular appropriations for the
11 support of the Government shall be enacted for a biennium
12 and shall specify the amount of appropriations provided
13 for each fiscal year in such period.

14 “(c) For purposes of this section, the term ‘biennium’
15 has the same meaning as in section 3(11) of the Congres-
16 sional Budget and Impoundment Control Act of 1974 (2
17 U.S.C. 622(11)).”.

18 **SEC. 206. ASSISTANCE BY FEDERAL AGENCIES TO STAND-**
19 **ING COMMITTEES OF THE SENATE AND THE**
20 **HOUSE OF REPRESENTATIVES.**

21 (a) INFORMATION REGARDING AGENCY APPROPRIA-
22 TIONS REQUESTS.—To assist each standing committee of
23 the Senate and the House of Representatives in carrying
24 out its responsibilities, the head of each Federal agency
25 which administers the laws or parts of laws under the ju-
26 risdiction of such committee shall provide to such commit-

tee such studies, information, analyses, reports, and assistance as may be requested by the chairman and ranking minority member of the committee.

(b) INFORMATION REGARDING AGENCY PROGRAM ADMINISTRATION.—

(1) FURNISHING INFORMATION.—To assist each standing committee of the Senate and the House of Representatives in carrying out its responsibilities, the head of any agency shall furnish without charge to such committee computer tapes or disks, together with explanatory documentation, containing information received, compiled, or maintained by the agency as part of the operation or administration of a program, or specifically compiled pursuant to a request in support of a review of a program, as may be requested by the chairman and ranking minority member of such committee.

(2) MINIMIZING REQUESTS.—The Committee on House Administration of the House of Representatives and the Committee on Rules and Administration of the Senate shall prescribe rules and regulations for their respective Houses which will minimize duplication of requests under paragraph (1) of this subsection.

31

1 (c) SUMMARIES BY COMPTROLLER GENERAL.—With-
2 in 30 days after the receipt of a request from a chairman
3 and ranking minority member of a standing committee
4 having jurisdiction over a program being reviewed and
5 studied by such committee under this section, the Comp-
6 troller General of the United States shall furnish to such
7 committee summaries of any audits or reviews of such pro-
8 gram which the Comptroller General has completed during
9 the preceding 6 years.

10 (d) CONGRESSIONAL ASSISTANCE.—Consistent with
11 their duties and functions under law, the Comptroller Gen-
12 eral of the United States, the Director of the Congres-
13 sional Budget Office, the Director of the Office of Tech-
14 nology Assessment, and the Director of the Congressional
15 Research Service shall furnish to each standing committee
16 of the Senate or the House of Representatives such infor-
17 mation, studies, analyses, and reports as the chairman and
18 ranking minority member may request to assist the com-
19 mittee in conducting reviews and studies of programs
20 under this section.

21 (e) SECRET AND CLASSIFIED INFORMATION PRO-
22 TECTED.—This section does not require the public dislo-
23 sure of matters that are specifically authorized under cri-
24 teria established by an Executive order to be kept secret
25 in the interest of national defense or foreign policy and

1 are in fact properly classified pursuant to such Executive
2 order, or which are otherwise specifically protected by law.
3 This section does not require any committee of the Senate
4 to disclose publicly information the disclosure of which is
5 governed by Senate Resolution 400, Ninety-fourth Con-
6 gress, or any other rule of the Senate.

7 **SEC. 207. AMENDMENTS TO RULES OF HOUSE OF REP-**
8 **RESENTATIVES.**

9 The Rules of the House of Representatives are
10 amended as follows:

11 (1) Clause 4(a)(1)(A) of rule X is amended by
12 inserting "odd-numbered" after "each".

13 (2) Clause 4(a)(2) of rule X is amended by
14 striking "such fiscal year" and inserting "the bien-
15 nium in which such fiscal year begins".

16 (3) Clause 4(b)(2) of rule X is amended by
17 striking "first concurrent resolution on the budget
18 for each fiscal year" and inserting "concurrent reso-
19 lution on the budget required under section 301(a)
20 of the Congressional Budget Act of 1974 for each
21 biennium".

22 (4) Clause 4(f) of rule X is amended by striking
23 "annually" each place it appears and inserting "bi-
24 ennially".

25 (5) Clause 4(g) of rule X is amended—

1 (A) by striking “March 15 of each year”
2 and inserting “March 15 of each odd-numbered
3 year”;

4 (B) by striking “fiscal year” the first place
5 it appears and inserting “biennium”; and

6 (C) by striking “that fiscal year” and in-
7 serting “each fiscal year in such ensuing
8 biennium”.

9 (6) Clause 4(h) of rule X is amended by strik-
10 ing “fiscal year” and inserting “biennium”.

11 (7) Subdivision (C) of clause 2(l)(1) of rule XI
12 is repealed.

13 (8) Clause 4(a) of rule XI is amended by strik-
14 ing “fiscal year if reported after September 15 pre-
15 ceding the beginning of such fiscal year” and insert-
16 ing “biennium if reported after August 1 of the year
17 in which such biennium begins”.

18 (9) Clause 2 of rule XLIX is amended by strik-
19 ing “fiscal year” and inserting “biennium”.

20 **SEC. 208. EFFECTIVE DATE; APPLICATION.**

21 (a) **IN GENERAL.**—Except as provided in subsection
22 (b), this title and the amendments made by it shall become
23 effective January 1, 1995, and shall apply to bienniums
24 beginning after September 30, 1995.

1 (b) FISCAL YEAR 1995.—Notwithstanding subsection

2 (a), the provisions of—

3 (1) the Congressional Budget Act of 1974, and

4 (2) title 31, United States Code,

5 (as such provisions were in effect on the day before the

6 effective date of this Act) shall apply to the fiscal year

7 beginning on October 1, 1994.

8 (c) DEFINITION.—For purposes of this section, the

9 term “biennium” shall have the meaning given to such

10 term in section 3(11) of the Congressional Budget and

11 Impoundment Control Act of 1974 (2 U.S.C. 622(11)),

12 as added by section 202(b)(2) of this Act.

13 **TITLE III—UNIFIED OPERATING**
14 **AND CAPITAL BUDGET**

15 **SEC. 301. STATEMENT OF FINDING AND PURPOSE.**

16 (a) STATEMENT OF FINDING.—The Congress finds

17 that the existing budget obscures the distinctions between

18 capital activities and operating activities, and between

19 Federal funds and trust funds so as to hinder identifying

20 the resources needed to meet the Government’s needs.

21 (b) PURPOSE.—It is the purpose of this title that the

22 unified budget present a capital budget and an operating

23 budget, and distinguish between Federal funds and trust

24 funds, in order to provide better and more relevant infor-

1 mation on the revenues, expenses, and financing require-
2 ments of Government programs and activities.

3 **SEC. 302. CAPITAL AND OPERATING BUDGETS.**

4 Title 31, United States Code, is amended by inserting
5 after section 1105 the following new section:

6 **“§ 1105a. Capital and operating budgets**

7 “(a)(1) The budget of the United States submitted
8 by the President under section 1105 of this title shall be
9 a unified budget composed of an operating budget and a
10 capital budget.

11 “(2) Operating and capital budgets shall be presented
12 separately for total funds, Federal funds, and trust funds.

13 “(b)(1) Actual, estimated, and proposed amounts
14 shall be presented for total funds, Federal funds, and trust
15 funds and, at a minimum, shall contain—

16 “(A) for the operating budget the following: (i)
17 operating revenues, (ii) operating expenses, (iii) op-
18 erating surplus/deficit before interfund transfers,
19 (iv) interfund transfers, and (v) operating surplus/
20 deficit;

21 “(B) for the capital budget the following: (i)
22 capital revenues, (ii) capital investments, (iii) net
23 capital investments, (iv) interfund transfers, and (v)
24 capital financing requirements;

25 “(C) items not affecting funds; and

1 “(D) unified budget financing requirements.

2 “(2) The capital budget shall represent only the
3 major activities, projects, and programs which support the
4 acquisition, construction, alteration, and rehabilitation of
5 capital assets. All other activities, projects, and programs
6 shall be represented in the operating budget.

7 “(c) In addition to the unified budget submitted by
8 the President as required by subsections (a) and (b) of
9 this section, the President shall present information in the
10 form required by subsection (b)(1) for accounts, agencies,
11 and functions, to the extent applicable.

12 “(d) In this section—

13 “(1) ‘unified budget’ means a budget in which
14 revenues and expenses for Federal funds and trust
15 funds are consolidated to display totals for the Fed-
16 eral Government as a whole;

17 “(2) ‘trust funds’ means—

18 “(A) the Federal Old-Age and Survivors
19 Insurance Trust Fund,

20 “(B) the Federal Hospital Insurance Trust
21 Fund,

22 “(C) the Civil Service Retirement and Dis-
23 ability Fund,

24 “(D) the Military Retirement Fund,

1 “(E) the Federal Supplementary Medical
2 Insurance Trust Fund,

3 “(F) the Unemployment Trust Fund,

4 “(G) the Federal Disability Insurance
5 Trust Fund, and

6 “(H) such other funds or accounts of the
7 Government that the Director of the Office of
8 Management and Budget, in consultation with
9 the Comptroller General, determines should be
10 classified as trust funds in order to fulfill the
11 purpose of this section;

12 “(3) ‘Federal funds’ includes all accounts of the
13 Government that are not trust funds;

14 “(4) ‘total funds’ means Federal funds and
15 trust funds and represents the unified budget;

16 “(5) ‘capital assets’ means physical assets and
17 financial assets, but does not include consumable
18 inventories;

19 “(6) ‘physical assets’ means tangible assets
20 whose ownership is or will be in the public domain;
21 which typically produce services or benefits, includ-
22 ing for national defense and security, for more than
23 3 years; and which have an initial cost equal to or
24 more than \$1,000,000. Such assets include, but are
25 not limited to—

38

1 “(A) roadways and bridges;

2 “(B) airports and airway facilities;

3 “(C) mass transportation systems;

4 “(D) waste water treatment and related
5 facilities;

6 “(E) water resource projects;

7 “(F) medical facilities;

8 “(G) resource recovery facilities;

9 “(H) public structures;

10 “(I) space and communication facilities;

11 “(J) defense facilities;

12 “(K) major weapons platforms; and

13 “(7) ‘financial assets’ means interests of the
14 Federal Government in, and claims of the Federal
15 Government against, foreign governments, States
16 and their political subdivisions, corporations, asso-
17 ciations, and individuals and their resources which
18 are represented by a legal instrument (such as
19 bonds, debentures, notes, and other securities), less
20 any credit subsidy costs attributable to such finan-
21 cial assets;

22 “(8) ‘credit subsidy costs’ means the losses in-
23 curred by the Federal Government as a result of its
24 direct and guaranteed loans, including such costs as
25 interest and default;

39

1 “(9) ‘consumable inventories’ means tangible
2 assets of the Federal Government, including stock-
3 piles, supplies, and inventories, which typically are
4 consumed within 3 years or which have an initial
5 price less than \$1,000,000;

6 “(10) ‘operating revenues’ means all receipts of
7 the Federal Government, other than those identified
8 in paragraph (16), including profits and interest
9 earned on financial assets;

10 “(11) ‘operating expenses’ means all expenses
11 of the Federal Government, other than those identi-
12 fied in paragraph (17), including interest payments
13 on debts, asset consumption charge, and credit sub-
14 sidy costs;

15 “(12) ‘the operating surplus/deficit before
16 interfund transfers’ means the difference between
17 operating revenues and operating expenses before
18 interfund transfers;

19 “(13) ‘interfund transfers’ means the flow of
20 revenues between Federal funds and trust funds ac-
21 counts that are expenses from the account making
22 the payments and revenues to the account receiving
23 the payments;

40

1 “(14) ‘operating surplus/deficit’ means the op-
2 erating surplus/deficit before interfund transfers
3 plus or minus interfund transfers;

4 “(15) ‘asset consumption charge’ means the
5 systematic allocation over the useful life of the asset
6 of the original cost of a physical asset financed by
7 the appropriation accounts for which the capital
8 budget required by this section applies;

9 “(16) ‘capital revenues’ means receipts of the
10 Federal Government derived from the repayment of
11 principal invested in financial assets, and taxes, col-
12 lections, and receipts dedicated by statute, for the
13 acquisition, construction, and rehabilitation of cap-
14 ital assets which relate to the activities, functions,
15 and programs represented by the capital budget;

16 “(17) ‘capital investments’ means expenditures
17 of the Federal Government, including those under
18 grants, contracts, and leases, which are for the ac-
19 quisition, construction, and rehabilitation of capital
20 assets;

21 “(18) ‘net capital investments’ means the
22 amount by which capital investments exceed the
23 asset consumption charge;

1 “(19) ‘capital financing requirements’ means
2 net capital investments plus or minus interfund
3 transfers;

4 “(20) ‘items not affecting funds’ means
5 noncash outlays of the Federal Government; and

6 “(21) ‘unified budget financing requirements’
7 means the total of the operating surplus/deficit and
8 the net capital financing requirements less items not
9 affecting funds.”.

10 **SEC. 303. CONFORMING AMENDMENTS.**

11 (a) Paragraph (1) of section 3 of the Congressional
12 Budget and Impoundment Control Act of 1974 (2 U.S.C.
13 622(1)) is amended by adding at the end the following
14 new sentence: “With respect to capital investments (as
15 such term is defined in section 1105a(d)(17) of title 31,
16 United States Code), expenditures shall include only the
17 asset consumption charge (as such term is defined in sec-
18 tion 1105a(d)(15) of title 31, United States Code) in the
19 current biennium for all such capital investments incurred
20 in the current and previous bienniums.”.

21 (b) Section 1112 of title 31, United States Code, is
22 amended—

23 (1) in subsection (c)(1) by inserting “criteria,
24 principles, and standards for determining the con-
25 tents of the operating and capital budgets required

1 under section 1105a of this title, and” after “includ-
2 ing”; and

3 (2) by adding the following subsection at the
4 end:

5 “(g) The Comptroller General shall review and report
6 to the Congress on the implementation of section 1105a
7 of this title as the Comptroller General deems necessary.
8 A review by the Comptroller General may include, but
9 need not be limited to, determining whether (1) the actual,
10 estimated, and proposed appropriations, receipts, and in-
11 vestments presented in the capital budget represent activi-
12 ties, functions, and programs which support the acquisi-
13 tion, construction, alteration, and rehabilitation of capital
14 assets, and (2) the classifications made by the Director
15 of the Office of Management and Budget under section
16 1105a(d)(2)(H) of this title further the purposes of
17 section 1105a.”.

18 **SEC. 304. PUBLIC WORKS FINANCING INFORMATION.**

19 Title VII of the Public Works and Economic Develop-
20 ment Act of 1965 (42 U.S.C. 3211–3226) is amended by
21 adding at the end the following new section:

22 **“SEC. 717. PUBLIC WORKS FINANCING INFORMATION.**

23 “(a) **TRANSPORTATION REPORTS.**—Not later than
24 12 months after the date of the enactment of the Com-
25 prehensive Budget Process Reform Act of 1993, and an-

1 nually thereafter, the Secretary of Transportation shall re-
2 port to the House Committee on Public Works and Trans-
3 portation and the Senate Committee on Environment and
4 Public Works, at the account, function, and agency levels,
5 the actual, estimated, and proposed appropriations, re-
6 ceipts, and expenditures for capital activities and operat-
7 ing activities associated with the following:

8 “(1) roadways and bridges;

9 “(2) airports and airway facilities; and

10 “(3) mass transportation systems.

11 “(b) WATER POLLUTION REPORTS.—Not later than
12 12 months after the date of the enactment of the Com-
13 prehensive Budget Process Reform Act of 1993, and an-
14 nually thereafter, the Administrator of the Environmental
15 Protection Agency shall report to the House Committee
16 on Public Works and Transportation and the Senate Com-
17 mittee on Environment and Public Works, at the account
18 and function levels, the actual, estimated, and proposed
19 appropriations, receipts, and expenditures for capital ac-
20 tivities and operating activities associated with waste
21 water treatment and related facilities.

22 “(c) WATER RESOURCES REPORTS.—Not later than
23 12 months after the date of the enactment of the Com-
24 prehensive Budget Process Reform Act of 1993, and an-
25 nually thereafter, the Assistant Secretary of the Army for

1 Civil Works shall report to the House Committee on Pub-
2 lic Works and Transportation and the Senate Committee
3 on Environment and Public Works, at the account and
4 function levels, the actual, estimated, and proposed appro-
5 priations, receipts, and expenditures for capital activities
6 and operating activities associated with water resource
7 projects.

8 “(d) PUBLIC BUILDINGS REPORTS.—Not later than
9 12 months after the date of the enactment of the Com-
10 prehensive Budget Process Reform Act of 1993, and an-
11 nually thereafter, the Administrator of the General Serv-
12 ices Administration shall report to the House Committee
13 on Public Works and Transportation and the Senate Com-
14 mittee on Environment and Public Works, at the account
15 and function levels, the actual, estimated, and proposed
16 appropriations, receipts, and expenditures for capital ac-
17 tivities and operating activities associated with public
18 buildings.”.

19 **SEC. 305. LEASING VERSUS PURCHASING ANALYSES.**

20 (a) OMB REGULATIONS.—Chapter 11 of title 31,
21 United States Code, (as amended by sections 602 and 701
22 of this Act) is amended by adding after section 1117 the
23 following new section:

1 **“§ 1118. Lease/Purchase Analyses**

2 “The Office of Management and Budget shall pro-
3 mulgate regulations requiring—

4 “(1) that each department and agency establish
5 standards to compare the advantages and disadvan-
6 tages of leasing versus purchasing any proposed real
7 estate or equipment with a cost in excess of
8 \$10,000,000; and

9 “(2) that each such analysis compares the net
10 present value of the 2 alternatives and be completed
11 before any commitment to purchase or lease any
12 such real estate or equipment may be entered into
13 by that department or agency.”.

14 (b) TECHNICAL AND CONFORMING AMENDMENT.—

15 The table of sections for chapter 11 of title 31, United
16 States Code, is amended by adding after the item relating
17 to section 1117 the following new item:

“1118. Lease/purchase analyses.”.

18 **TITLE IV—SUNSET AUTHORITY**

19 SEC. 401. The purposes of this title are—

20 (1) to require that most Government programs
21 be reauthorized according to a schedule at least once
22 every ten years;

23 (2) to limit the length of time for which Gov-
24 ernment programs can be authorized to ten years;

1 (3) to bar the expenditure of funds for Govern-
2 ment programs which have not been provided for by
3 a law enacted during the ten-year sunset reauthor-
4 ization cycle; and

5 (4) to encourage the reexamination of selected
6 Government programs each Congress.

7 SEC. 402. (a) For purposes of this title—

8 (1) The term “budget authority” has the mean-
9 ing given to it by section 3(2) of the Congressional
10 Budget and Impoundment Control Act of 1974.

11 (2) The term “permanent budget authority”
12 means budget authority provided for an indefinite
13 period of time or an unspecified number of
14 bienniums which does not require recurring action
15 by the Congress, but does not include budget au-
16 thority provided for a specified biennium which is
17 available for obligation or expenditure in one or
18 more succeeding bienniums.

19 (3) The term “Comptroller General” means the
20 Comptroller General of the United States.

21 (4) The term “agency” means an executive
22 agency as defined in section 105 of title 5, United
23 States Code, except that such term includes the
24 United States Postal Service and the Postal Rate

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1 Commission but does not include the General
2 Accounting Office.

3 (5) The term "sunset reauthorization cycle"
4 means the period of five Congresses beginning with
5 the One Hundred Fourth Congress and with each
6 sixth Congress following the One Hundred Fourth
7 Congress.

8 (b) For purposes of this title, each program (includ-
9 ing any program exempted by a provision of law from in-
10 clusion in the Budget of the United States) shall be as-
11 signed to the functional and subfunctional categories to
12 which it is assigned in the Budget of the United States
13 Government, fiscal year 1991. Each committee of the Sen-
14 ate or the House of Representatives which reports any bill
15 or resolution which authorizes the enactment of new budg-
16 et authority for a program not included in the fiscal year
17 1991 budget shall include, in the committee report accom-
18 panying such bill or resolution (and, where appropriate,
19 the conferees shall include in their joint statement on such
20 bill or resolution), a statement as to the functional and
21 subfunctional category to which such program is to be
22 assigned.

23 (c) For purposes of subtitles A, B, and C of this title,
24 the reauthorization date applicable to a program is the
25 date specified for such program under section 411(h).

1 **Subtitle A—Reauthorization of** 2 **Government Programs**

3 SEC. 411. (a) Each Government program (except
 4 those listed in section 413) shall be reauthorized at least
 5 once during each sunset reauthorization cycle during the
 6 Congress in which the reauthorization date applicable to
 7 such program (pursuant to subsection (b)) occurs.

8 (b) The first reauthorization date applicable to a Gov-
 9 ernment program is the date specified in the following
 10 table, and each subsequent reauthorization date applicable
 11 to a program is the date ten years following the preceding
 12 reauthorization date:

Programs included within subfunctional category	First reauthorization date
254 Space, Science, Applications and Technology.	September 30, 1996.
272 Energy Conservation.	
301 Water Resources.	
352 Agriculture and Research Services.	
371 Mortgage Credit and Thrift Insurance.	
376 Other Advancement and Regulation of Commerce.	September 30, 1998.
501 Elementary, Secondary, and Vocational Education.	
601 General Retirement and Disability Insurance.	
602 Federal Employment Retirement and Disability.	
703 Hospital and Medical Care for Veterans.	
807 Other General Government.	
051 Department of Defense—Military.	
053 Atomic Energy Defense Activities.	
154 Foreign Information and Exchange Act.	
251 General Science and Basic Research.	
306 Other Natural Resources.	
351 Farm Income Stabilization.	
401 Ground Transportation.	
502 Higher Education.	
553 Education and Training of Health Care Work Force.	September 30, 2000.
701 Income Security for Veterans.	
802 Executive Director and Management.	
803 Central Fiscal Operations.	
054 Defense Related Activities.	

Programs included within subfunctional category	First reauthorization date
152 International Security Assistance.	
155 International Financial Programs.	
253 Space Flight.	
255 Supporting Space Activities.	
274 Emergency Energy Preparedness.	
302 Conservation and Land Management.	
304 Pollution Control and Abatement.	
407 Other Transportation.	
504 Training and Employment.	
506 Social Services.	
554 Consumer and Occupational Health and Safety.	
704 Veterans Housing.	
751 Federal Law Enforcement Activities.	
801 Legislative Function.	
806 Other General Purpose Fiscal Assistance.	
153 Conduct of Foreign Affairs.	September 30, 2002.
271 Energy Supply.	
303 Recreational Resources.	
402 Air Transportation.	
505 Other Labor Services.	
551 Health Care Services.	
604 Public Assistance and Other Income Supplements.	
702 Veterans Education, Training, and Rehabilitation.	
753 Federal Correctional Activities.	
805 Central Personnel Management.	
151 Foreign Economic and Financial Assistance.	September 30, 2004.
276 Energy Information, Policy and Regulation.	
372 Postal Service.	
403 Water Transportation.	
451 Community Development.	
452 Area and Regional Development.	
453 Disaster Relief and Insurance.	
503 Research and General Education Aids.	
552 Health Research.	
603 Unemployment Compensation.	
705 Other Veterans Benefits and Services.	
754 Criminal Justice Assistance.	
804 General Property and Record Management.	

1 (e)(1) It shall not be in order in either the Senate
2 or the House of Representatives to consider any bill or
3 resolution, or amendment thereto, which authorizes the
4 enactment of new budget authority for a program for a
5 period of more than 5 bienniums, for an indefinite period,
6 or (except during the Congress in which such next reau-

1 thorization date occurs) for any biennium beginning after
2 the next reauthorization date applicable to such program.
3 Notwithstanding the preceding sentence, it shall be in
4 order to consider a bill or resolution for the purpose of
5 considering an amendment to the bill or resolution which
6 would make the authorization period conform to the
7 requirement of such sentence.

8 (2)(A) It shall not be in order in either the Senate
9 or the House of Representatives to consider any bill or
10 resolution, or amendment thereto, which provides new
11 budget authority for a program for any biennium begin-
12 ning after any reauthorization date applicable to such pro-
13 gram under subsection (b), unless the provision of such
14 new budget authority is specifically authorized by a law
15 which constitutes a required authorization for such
16 program.

17 (B) For the purposes of this subtitle, the term "re-
18 quired authorization" means a law authorizing the enact-
19 ment of new budget authority for a program, which com-
20 plies with the provisions of paragraph (1).

21 (3) No new budget authority may be obligated or ex-
22 pended for a program for a biennium beginning after the
23 last biennium in a sunset reauthorization cycle unless a
24 provision of law providing for the expenditure of such

1 funds has been enacted during such sunset reauthorization
2 cycle.

3 (4) Any provision of law providing permanent budget
4 authority for a program shall cease to be effective (for the
5 purpose of providing such budget authority) on the first
6 reauthorization date applicable to such program.

7 (5) It shall not be in order in either the Senate or
8 the House of Representatives to consider any bill or reso-
9 lution, or amendment thereto, which provides new budget
10 authority for a program unless the bill or resolution, or
11 amendment thereto (or the report which accompanies such
12 bill or resolution), includes a specific reference to the pro-
13 vision of law which constitutes a required authorization
14 for such program. Notwithstanding the preceding sen-
15 tence, it shall be in order to consider a bill or resolution
16 for the purpose of considering an amendment which pro-
17 vides such reference to the appropriate provision of law.

18 SEC. 412. (a) It shall not be in order in either the
19 Senate or the House of Representatives to consider any
20 bill or resolution, or amendment thereto, which has been
21 reported by a committee and which authorizes the enact-
22 ment of new budget authority for a program for a bien-
23 nium beginning after the next reauthorization date appli-
24 cable to such program, unless a reauthorization review of
25 such program has been completed during the Congress in

1 which the reauthorization date for such program occurs
2 (or during a subsequent Congress when such required au-
3 thorization is considered), and the report accompanying
4 such bill or resolution includes a separate section entitled
5 "Reauthorization Review" recommending, based on such
6 review, whether the program or the laws affecting such
7 program should be continued without change, continued
8 with modifications, or terminated, and also includes, to the
9 extent the committee or committees having jurisdiction
10 deem appropriate, each of the following matters:

11 (1) Information and analysis on the organiza-
12 tion, operation, costs, results, accomplishments, and
13 effectiveness of the program.

14 (2) An identification of any other programs
15 having similar objectives, and a justification of the
16 need for the proposed program in comparison with
17 those other programs which may be potentially con-
18 flicting or duplicative.

19 (3) An identification of the objectives intended
20 for the program, and the problems or needs which
21 the program is intended to address, including an
22 analysis of the performance expected to be achieved,
23 based on the bill or resolution as reported.

24 (4) A comparison of the amount of new budget
25 authority which was authorized for the program in

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1 each of the previous 2 bienniums and the amount of
2 new budget authority provided in each such year.

3 (b) It shall not be in order in either the Senate or
4 the House of Representatives to consider a bill or resolu-
5 tion, or amendment thereto, which authorizes the enact-
6 ment of new budget authority for a program for which
7 there previously has been no such authorization unless the
8 report accompanying such bill or resolution sets forth, to
9 the extent that the committee or committees having juris-
10 diction deem appropriate, the information specified in sub-
11 sections (a)(2) and (a)(3).

12 (c) Each committee having legislative jurisdiction
13 over a program referred to in section 413 shall conduct
14 a review of such program of the type described in sub-
15 section (a) of this section at least once during each sunset
16 reauthorization cycle, during the Congress in which the
17 reauthorization date applicable to such program occurs,
18 and shall submit to the Senate or the House of Represent-
19 atives, as the case may be, a report containing its rec-
20 ommendations and other information of the type described
21 in subsection (a). It shall not be in order in either the
22 Senate or the House of Representatives to consider a bill
23 or resolution reported by the committee having legislative
24 jurisdiction which authorizes the enactment of new budget
25 authority for such program unless such report accom-

1 panies such bill or resolution, or has been submitted dur-
2 ing the Congress in which the reauthorization date for
3 such program occurred as provided in section 411(b),
4 whichever first occurs.

5 SEC. 413. Section 411(c) shall not apply to the
6 following:

7 (1) Programs included within functional cat-
8 egory 900 (Interest).

9 (2) Programs which are related to the adminis-
10 tration of the Federal judiciary and which are classi-
11 fied in the fiscal year 1993 budget under
12 subfunctional category 752 (Federal litigative and
13 judicial activities).

14 (3) Payments of refunds of internal revenue col-
15 lections as provided in title I of the Supplemental
16 Treasury and Post Office Departments Appropria-
17 tion Act of 1949 (62 Stat. 561), but not to include
18 refunds to persons in excess of their tax payments.

19 SEC. 414. (a) It is the sense of the Congress that
20 all programs should be considered and reauthorized in
21 program categories which constitute major areas of legis-
22 lative policy. Such authorizations should be for sufficient
23 periods of time to enhance oversight and the review and
24 evaluation of Government programs.

1 (b) The reauthorization schedule contained in section
2 411(b) may be changed by concurrent resolution of the
3 two Houses of the Congress (except that changes in the
4 schedule affecting permanent appropriations may be made
5 only by law).

6 (c) All messages, petitions, memorials, concurrent
7 resolutions, and bills proposing changes in section 411(b)
8 and all bills proposing changes in section 413, shall be
9 referred first to the committee with legislative jurisdiction
10 over any program affected by the proposal and sequen-
11 tially to the Committee on Rules in the House of Rep-
12 resentatives or to the Committee on Rules and Adminis-
13 tration in the Senate.

14 (d) Except as provided in subsection (f), the Commit-
15 tee on Rules in the House of Representatives or the Com-
16 mittee on Rules and Administration in the Senate shall
17 report with its recommendations any concurrent resolution
18 or bill referred to it under subsection (c) and which pre-
19 viously has been reported favorably by a committee of leg-
20 islative jurisdiction within thirty days (not counting any
21 day on which the Senate or the House of Representatives
22 is not in session), beginning with the day following the
23 day on which such resolution or bill is so referred.

24 (e) The recommendations of the Committee on Rules
25 or the Committee on Rules and Administration pursuant

1 to subsection (d) or (f) shall include a statement on each
2 of the following matters:

3 (1) The effect the proposed change would have
4 on the sunset reauthorization schedule.

5 (2) The effect the proposed change would have
6 on the jurisdictional and reauthorization responsibil-
7 ities and workloads of the authorizing committees
8 of Congress.

9 (3) Any suggested grouping of similar programs
10 which would further the goals of this title to make
11 more effective comparisons between programs having
12 like objective.

13 (f) Any concurrent resolution or bill proposing a
14 change in section 411(b) or 413 shall be referred in the
15 House to the Committee on Rules and in the Senate to
16 the Committee on Rules and Administration. Such com-
17 mittee shall report an omnibus concurrent resolution or
18 bill containing its recommendations regarding the pro-
19 posed changes and consideration of such bill or resolution
20 shall be highly privileged in the House of Representatives
21 and privileged in the Senate. The provisions of subsections
22 (c) and (d) of section 1017 of the Impoundment Control
23 Act of 1974, insofar as they relate to consideration of re-
24 scission bills, shall apply to the consideration of concur-
25 rent resolutions and bills proposing changes reported pur-

1 suant to this subsection, amendments thereto, motions
2 and appeals with respect thereto, and conference reports
3 thereon.

4 (g) It shall not be in order in the Senate or the House
5 of Representatives to consider a bill or resolution reported
6 pursuant to subsection (b), (c), (d), or (f) which proposes
7 a reauthorization date for a program beyond the final re-
8 authorization date of the sunset reauthorization cycle then
9 in progress. Notwithstanding the preceding sentence, it
10 shall be in order to consider a bill or resolution for the
11 purpose of considering an amendment which meets the
12 requirements of this subsection.

13 **Subtitle II—Program Inventory**

14 SEC. 421. (a) The Comptroller General and the Di-
15 rector of the Congressional Budget Office, in cooperation
16 with the Director of the Congressional Research Service,
17 shall prepare an inventory of Federal programs (herein-
18 after in this subtitle referred to as the “program inven-
19 tory”).

20 (b) The purpose of the program inventory is to advise
21 and assist the Congress in carrying out the requirements
22 of subtitles A and C. Such inventory shall not in any way
23 bind the committees of the Senate or the House of Rep-
24 resentatives with respect to their responsibilities under
25 such subtitles and shall not infringe on the legislative and

1 oversight responsibilities of such committees. The Comp-
2 troller General shall compile and maintain the inventory,
3 and the Director of the Congressional Budget Office shall
4 provide budgetary information for inclusion in the inven-
5 tory.

6 (c) Not later than January 1, 1995, the Comptroller
7 General, after consultation with the Director of the Con-
8 gressional Budget Office and the Director of the Congres-
9 sional Research Service, shall submit the program inven-
10 tory to the Senate and House of Representatives.

11 (d) In the report submitted under this section, the
12 Comptroller General, after consultation and in cooperation
13 with and consideration of the views and recommendations
14 of the Director of the Congressional Budget Office, shall
15 group programs into program areas appropriate for the
16 exercise of the review and reexamination requirements of
17 this subtitle. Such groupings shall identify program areas
18 in a manner which classifies each program in only one
19 functional and only one subfunctional category and which
20 is consistent with the structure of national needs, agency
21 missions, and basic programs developed pursuant to sec-
22 tion 1105 of title 31, United States Code.

23 (e) The program inventory shall set forth for each
24 program each of the following matters:

1 (1) The specific provision or provisions of law
2 authorizing the program.

3 (2) The committees of the Senate and the
4 House of Representatives which have legislative or
5 oversight jurisdiction over the program.

6 (3) A brief statement of the purpose or pur-
7 poses to be achieved by the program.

8 (4) The committees which have jurisdiction over
9 legislation providing new budget authority for the
10 program, including the appropriate subcommittees of
11 the Committees on Appropriations of the Senate and
12 the House of Representatives.

13 (5) The agency and, if applicable, the subdivi-
14 sion thereof responsible for administering the pro-
15 gram.

16 (6) The grants-in-aid, if any, provided by such
17 program to State and local governments.

18 (7) The next reauthorization date for the pro-
19 gram.

20 (8) A unique identification number which links
21 the program and functional category structure.

22 (9) The year in which the program was origi-
23 nally established and, where applicable, the year in
24 which the program expires.

1 (10) Where applicable, the year in which new
2 budget authority for the program was last author-
3 ized and the year in which current authorizations of
4 new budget authority expire.

5 (f) The inventory shall contain a separate tabular list-
6 ing of programs which are not required to be reauthorized
7 pursuant to section 411(c).

8 (g) The report also shall set forth for each program
9 whether the new budget authority provided for such
10 programs is—

11 (1) authorized for a definite period of time;

12 (2) authorized in a specific dollar amount but
13 without limit of time;

14 (3) authorized without limit of time or dollar
15 amounts;

16 (4) not specifically authorized; or

17 (5) permanently provided,

18 as determined by the Director of the Congressional
19 Budget Office.

20 (h) For each program or group of programs, the pro-
21 gram inventory also shall include information prepared by
22 the Director of the Congressional Budget Office indicating
23 each of the following matters:

24 (1) The amounts of new budget authority au-
25 thorized and provided for the program for each of

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1 the preceding 2 bienniums and, where applicable, the
2 succeeding bienniums.

3 (2) The functional and subfunctional category
4 in which the program is presently classified and was
5 classified under the fiscal year 1993 budget.

6 (3) The identification code and title of the ap-
7 propriation account in which budget authority is
8 provided for the program.

9 SEC. 422. The General Accounting Office, the Con-
10 gressional Research Service, and the Congressional Budg-
11 et Office shall permit the mutual exchange of available in-
12 formation in their possession which would aid in the com-
13 pilation of the program inventory.

14 SEC. 423. The Office of Management and Budget,
15 and the Executive agencies and the subdivisions thereof
16 shall, to the extent necessary and possible, provide the
17 General Accounting Office with assistance requested by
18 the Comptroller General in the compilation of the program
19 inventory.

20 SEC. 424. Each committee of the Senate and the
21 House of Representatives, the Congressional Budget Of-
22 fice, and the Congressional Research Service shall review
23 the program inventory as submitted under section 421 and
24 not later than September 1, 1993, each shall advise the
25 Comptroller General of any revisions in the composition

1 or identification of programs and groups of programs
2 which it recommends. After full consideration of the re-
3 ports of all such committees and officials, the Comptroller
4 General in consultation with the committees of the Senate
5 and the House of Representatives shall report, not later
6 than May 1, 1995, a revised program inventory to the
7 Senate and the House of Representatives.

8 SEC. 425. (a) The Comptroller General, after the
9 close of each session of the Congress, shall revise the pro-
10 gram inventory and report the revisions to the Senate and
11 the House of Representatives.

12 (b) After the close of each session of the Congress,
13 the Director of the Congressional Budget Office shall pre-
14 pare a report, for inclusion in the revised inventory, with
15 respect to each program included in the program inventory
16 and each program established by law during such session,
17 which includes the amount of the new budget authority
18 authorized and the amount of new budget authority pro-
19 vided for the current biennium and each of the 2 succeed-
20 ing bienniums. If new budget authority is not authorized
21 or provided or is authorized or provided for an indefinite
22 amount for any of such 2 succeeding bienniums with re-
23 spect to any program, the Director shall make projections
24 of the amounts of such new budget authority necessary

1 to be authorized or provided for any such biennium to
2 maintain a current level of services.

3 (c) Not later than one year after the first or any sub-
4 sequent reauthorization date, the Director of the Congres-
5 sional Budget Office, in consultation with the Comptroller
6 General and the Director of the Congressional Research
7 Service, shall compile a list of the provisions of law related
8 to all programs subject to such reauthorization date for
9 which new budget authority was not authorized. The Di-
10 rector of the Congressional Budget Office shall include
11 such a list in the report required by subsection (b). The
12 committees with legislative jurisdiction over the affected
13 programs shall study the affected provisions and make any
14 recommendations they deem to be appropriate with regard
15 to such provisions to the Senate and the House of
16 Representatives.

17 SEC. 426. The Director of the Congressional Budget
18 Office and the Comptroller General shall include in their
19 respective reports to the Congress pursuant to section
20 202(f) of the Congressional Budget Act of 1974 and sec-
21 tion 719 of title 31, United States Code, an assessment
22 of the adequacy of the functional and subfunctional cat-
23 egories contained in section 411(b) of this title for group-
24 ing programs of like missions or objectives.

1 SEC. 427. (a) The Director of the Congressional
2 Budget Office shall tabulate and issue an annual report
3 on the progress of congressional action on bills and resolu-
4 tions reported by a committee of either House or passed
5 by either House which authorize the enactment of new
6 budget authority for programs.

7 (b) The report shall include an up-to-date tabulation
8 for the biennium beginning October 1 and the succeeding
9 2 bienniums of the amounts of budget authority (1) au-
10 thorized by law or proposed to be authorized in any bill
11 or resolution reported by any committee of the Senate or
12 the House of Representatives, or (2) if budget authority
13 is not authorized or proposed to be authorized for any of
14 the 2 bienniums, the amounts necessary to maintain a cur-
15 rent level of services for programs in the inventory.

16 (c) The Director of the Congressional Budget Office
17 shall issue periodic reports on the programs and the provi-
18 sions of laws which are scheduled for reauthorization in
19 each Congress pursuant to the reauthorization schedule
20 in section 411(b). In these reports, the Director shall iden-
21 tify each provision of law which authorizes the enactment
22 of new budget authority for programs scheduled for reau-
23 thorization and the title of the appropriation bill, or part
24 thereof, which would provide new budget authority pursu-
25 ant to each authorization.

Subtitle C—Program Reexamination

SEC. 431. (a) Each committee of the Senate and the House of Representatives periodically shall provide through the procedures established in section 432, for the conduct of a comprehensive reexamination of selected programs or groups of programs over which it has jurisdiction.

(b) In selecting programs and groups of programs for reexamination, each committee shall consider each of the following matters:

(1) The extent to which substantial time has passed since the program or group of programs has been in effect.

(2) The extent to which a program or group of programs appears to require significant change.

(3) The resources of the committee with a view toward undertaking reexaminations across a broad range of programs.

(4) The desirability of examining related programs concurrently.

SEC. 432. (a)(1) The funding resolution first reported by each committee of the Senate in 1995, and thereafter for the first session of each Congress, shall include, and the first funding resolution introduced by each

1 committee of the House of Representatives (and referred
2 to the Committee on House Administration) for such year
3 and thereafter for the first session of each Congress shall
4 include, a section setting forth the committee's plan for
5 reexamination of programs under this subtitle. Such plan
6 shall include each of the following matters:

7 (A) The programs to be reexamined and the
8 reasons for their selection.

9 (B) The scheduled completion date for each
10 program reexamination, which date shall not be later
11 than the end of the Congress preceding the Congress
12 in which the reauthorization date applicable to a
13 program occurs as provided in section 411(b), unless
14 the committee explains in a statement in the report
15 accompanying its proposed funding resolution (in
16 the Senate), or in a statement supplied by the re-
17 spective committee and included in the report of the
18 Committee on House Administration (in the House
19 of Representatives), the reasons for a later comple-
20 tion date, except that reports on programs scheduled
21 for reauthorization during the 103d Congress may
22 be submitted at any time on or before February 15,
23 1995.

24 (C) The estimated cost for each reexamination.

1 (2) The report accompanying the funding resolution
2 reported by each committee of the Senate in 1995 and
3 thereafter for the first session of each Congress, shall in-
4 clude, and the report accompanying the funding resolution
5 reported by the Committee on House Administration with
6 respect to each committee of the House of Representatives
7 shall include, a statement of that committee, with respect
8 to each reexamination in its plan, of each of the following
9 matters:

10 (A) A description of the components of the
11 reexamination.

12 (B) A statement of whether the reexamination
13 is to be conducted (i) by the committee, or (ii) at the
14 request and under the direction of or under contract
15 with the committee, as the case may be, by one or
16 more instrumentalities of the legislative branch, one
17 or more instrumentalities of the executive branch, or
18 one or more nongovernmental organizations, or (iii)
19 by a combination of the foregoing.

20 (3) It shall not be in order to consider a funding reso-
21 lution with respect to a committee of the Senate or the
22 House of Representatives in 1995, and thereafter for the
23 first session of a Congress, unless—

24 (A) such resolution includes a section contain-
25 ing the information described in paragraph (1) and

1 the report accompanying such resolution contains
2 the information described in paragraph (2); and

3 (B) the report required by subsection (c) with
4 respect to each program reexamination scheduled for
5 completion during the preceding Congress by such
6 committee has been submitted for printing.

7 (4) It shall not be in order to consider an amendment
8 to the section of a funding resolution described in para-
9 graph (1) reported by a committee of the Senate for a
10 year, or reported by the Committee on House Administra-
11 tion with respect to a committee of the House of Rep-
12 resentatives for a year—

13 (A) if such amendment would require reexam-
14 ination of a program which has been reexamined by
15 such committee under this section during any of the
16 five preceding years;

17 (B) if such amendment would cause such sec-
18 tion not to contain the information described in
19 paragraph (1) with respect to each program to be
20 reexamined by such committee; or

21 (C) if notice of intention to propose such
22 amendment has not been given to such committee
23 and, in the case of an amendment in the Senate, to
24 the Committee on Rules and Administration of the
25 Senate, or, in the case of an amendment in the

1 House of Representatives, to the Committee on
2 House Administration, not later than January 20 of
3 the calendar year in which such year begins or the
4 first day of the session of the Congress in which
5 such year begins, whichever is later.

6 The notice required by subparagraph (C) shall include the
7 substance of the amendment intended to be proposed, and,
8 if such amendment would add one or more programs to
9 be reexamined, shall include the information described in
10 paragraphs (1) and (2) with respect to each such program.
11 Subparagraph (C) shall not apply to amendments pro-
12 posed by such committee or by the Committee on Rules
13 and Administration or House Administration, as the case
14 may be.

15 (b) In order to achieve coordination of program
16 reexamination each committee shall, in preparing each re-
17 examination plan required by subsection (a), consult with
18 appropriate committees of the Senate or appropriate com-
19 mittees of the House of Representatives, as the case may
20 be, and shall inform itself of related activities of and sup-
21 port or assistance that may be provided by (1) the General
22 Accounting Office, the Congressional Budget Office, the
23 Congressional Research Service, and the Office of Tech-
24 nology Assessment, and (2) appropriate instrumentalities
25 in the executive and judicial branches.

1 (c) Each committee shall prepare and have printed
2 a report with respect to each reexamination completed
3 under this subtitle. Each such report shall be delivered
4 to the Secretary of the Senate or the Clerk of the House
5 of Representatives, as the case may be, not later than the
6 date specified in the resolution and printed as a Senate
7 or House document, accordingly. To the extent permitted
8 by law or regulation, such number of additional copies as
9 the committee may order shall be printed for the use of
10 the committee. If two or more committees have legislative
11 jurisdiction over the same program or portions of the same
12 program, such committees may reexamine such program
13 jointly and submit a joint report with respect to such
14 reexamination.

15 (d) The report pursuant to subsection (c) shall set
16 forth the findings, recommendations, and justifications
17 with respect to the program, and shall include to the
18 extent the committee deems appropriate, each of the
19 following matters:

20 (1) An identification of the objectives intended
21 for the program and the problem it was intended to
22 address.

23 (2) An identification of any trends, develop-
24 ments, and emerging conditions which are likely to
25 affect the future nature and extent of the problems

1 or needs which the program is intended to address
2 and an assessment of the potential primary and sec-
3 ondary effects of the proposed program.

4 (3) An identification of any other program hav-
5 ing potentially conflicting or duplicative objectives.

6 (4) A statement of the number and types of
7 beneficiaries or persons served by the program.

8 (5) An assessment of the effectiveness of the
9 program and the degrees to which the original objec-
10 tives of the program or group of programs have been
11 achieved.

12 (6) An assessment of the cost effectiveness of
13 the program, including where appropriate, a cost-
14 benefit analysis of the operation of the program.

15 (7) An assessment of the relative merits of al-
16 ternative methods which could be considered to
17 achieve the purposes of the program.

18 (8) Information on the regulatory, privacy, and
19 paperwork impacts of the program.

20 (e) A report submitted pursuant to this section shall
21 be deemed to satisfy the reauthorization review require-
22 ments of subtitle A.

23 SEC. 433. Each department or agency of the execu-
24 tive branch which is responsible for the administration of
25 a program selected for reexamination pursuant to this

1 subtitle shall, not later than six months before the comple-
2 tion date specified for reexamination reports pursuant to
3 section 432(a)(1)(B), submit to the Office of Management
4 and Budget and to the appropriate committee or commit-
5 tees of the Senate and the House of Representatives a re-
6 port of its findings, recommendations, and justifications
7 with respect to each of the matters set forth in section
8 432(d), and the Office of Management and Budget shall
9 submit to such committee or committees such comments
10 as it deems appropriate.

11 SEC. 434. For the purposes of this subtitle—

12 (1) The term “funding resolution” means, with
13 respect to each committee of the House of Rep-
14 resentatives, the primary funding resolution for such
15 committee which is effective for the duration of a
16 Congress.

17 (2) An amendment to a funding resolution in-
18 cludes a resolution of the Senate which amends such
19 funding resolution.

20 **Subtitle D—Tax Expenditures**

21 SEC. 441. For purposes of this subtitle—

22 (1) The term “tax expenditure provision”
23 means any provision of Federal law—

24 (A) which allows a special exclusion, ex-
25 emption, or deduction in determining liability

1 for any tax or which provides a special credit
2 against any tax, a preferential rate of tax, or a
3 deferral of tax liability; and

4 (B) would cause a revenue loss of at least
5 \$2,000,000,000 in a biennium.

6 (2) The term “Committee on Ways and Means”
7 means the Committee on Ways and Means of the
8 House of Representatives.

9 (3) The term “Committee on Finance” means
10 the Committee on Finance of the Senate.

11 (4) The term “Joint Tax Committee” means
12 the Joint Committee on Taxation of the Congress.

13 SEC. 442. (a) Not later than July 1, 1995, the Direc-
14 tor of the Congressional Budget Office after consultation
15 with the Joint Tax Committee shall prepare an inventory
16 of tax expenditures provisions (hereinafter in this subtitle
17 referred to as the “tax inventory”) and submit a report
18 thereon to the Committee on Ways and Means and the
19 Committee on Finance. The report shall include for each
20 tax expenditure provision—

21 (1) the statute, regulation, ruling, or other cir-
22 cumstance which is the basis for the tax expenditure
23 provision;

24 (2) an identification of the tax against which
25 the tax expenditure provision allows a special exclu-

1 sion, exemption, or deduction in determining liability
2 or provides a special credit, a preferential rate of
3 tax, or a deferral of tax liability;

4 (3) a brief statement of the purpose or pur-
5 poses to be achieved by the tax expenditure provi-
6 sion;

7 (4) the period of time, if any, for which the tax
8 expenditure provision has been in effect;

9 (5) the estimated revenue loss from the tax ex-
10 penditure provision for the preceding 2 bienniums;

11 (6) an analysis of the distributional impact of
12 the tax expenditure provision; and

13 (7) the functional and subfunctional category of
14 the budget in which the tax expenditure provision is
15 classified.

16 (b) The General Accounting Office, the Congressional
17 Research Service, and the Office of Technology Assess-
18 ment shall provide the Congressional Budget Office and
19 the Joint Tax Committee with information requested
20 which would aid in the compilation of the tax inventory.

21 (c) The Department of the Treasury, the Office of
22 Management and Budget, and the other agencies shall, to
23 the extent necessary and possible, provide the Congres-
24 sional Budget Office and the Joint Tax Committee with

1 any assistance requested for the preparation of the tax
2 inventory.

3 SEC. 443. The Committee on Ways and Means and
4 the Committee on Finance shall review the tax inventory
5 submitted as provided in section 442 and, not later than
6 October 1, 1995, shall advise the Director of the Congres-
7 sional Budget Office of any proposed revisions in the com-
8 position or identification of tax expenditure provisions in
9 the tax inventory. After considering the advice of such
10 committees, such Director, in consultation with the Joint
11 Tax Committee, shall report, not later than December 1,
12 1995, a revised tax inventory to the House and the Senate.

13 SEC. 444. (a) The Director of the Congressional
14 Budget Office, after the close of each session of the Con-
15 gress, shall revise the tax inventory after consultation with
16 the Joint Tax Committee and issue a report on the revi-
17 sions thereto to the Senate and House of Representatives.
18 Such report shall indicate, with respect to each tax ex-
19 penditure provision established during such session, the
20 revenue loss which will result in the current biennium and
21 the 2 succeeding bienniums.

22 (b) The Director of the Congressional Budget Office
23 shall tabulate and issue periodic reports to the Senate and
24 the House of Representatives on the progress of congres-
25 sional action on bills and resolutions reported by the Com-

1 mittee on Ways and Means or the Committee on Finance
2 or passed by either House which affect tax expenditure
3 provisions and each new tax expenditure provision pro-
4 posed to be enacted by any bill or resolution reported, with
5 respect to the amount of revenue loss which would result
6 in the next biennium and each of the 2 succeeding
7 bienniums.

8 SEC. 445. (a) During the first session of the One
9 Hundred Fourth Congress, the Committee on Ways and
10 Means and the Committee on Finance shall report, and
11 the Congress shall complete action on, a bill prescribing
12 a schedule of reauthorization dates for all tax expenditure
13 provisions (other than those specifically exempted in the
14 bill) which are in the tax inventory, or, if not in such in-
15 ventory, which are in effect on the date of the enactment
16 of such bill or which have been enacted or otherwise estab-
17 lished as of such date and will become effective after such
18 date. Under such schedule there shall be 5 first reauthor-
19 ization dates for tax expenditure provisions beginning with
20 September 30, 1996, and continuing on September 30 of
21 each of the following 4 even-numbered years, and each
22 subsequent reauthorization date applicable to a tax ex-
23 penditure provision shall be the date 10 years following
24 the preceding reauthorization date.

1 (b) Upon enactment of the bill described in sub-
2 section (a), and subject to the rules and changes provided
3 pursuant to section 406, each tax expenditure provision
4 shall cease to be effective on January 1 of the year follow-
5 ing the first (or subsequent) reauthorization date provided
6 in the schedule adopted pursuant to subsection (a) and
7 the bills, resolutions, or amendments thereto enacted pur-
8 suant to subsection (d), unless it would otherwise cease
9 to be effective at an earlier date, or unless it is reauthor-
10 ized by a law enacted after the date of enactment of this
11 title.

12 (c) It shall not be in order in either the Senate or
13 the House of Representatives to consider a bill or resolu-
14 tion, or amendment thereto, which provides for the reau-
15 thorization of all or part of a tax expenditure provision
16 which is in the schedule adopted pursuant to subsection
17 (a) or which was enacted pursuant to subsection (d)—

- 18 (1) for an indefinite period of time,
19 (2) for a period exceeding 10 taxable years, or
20 (3) (except during the Congress in which the
21 next reauthorization date for such provision occurs)
22 for any taxable year beginning after the next reau-
23 thorization date applicable to such tax expenditure
24 provision.

1 (d) After the enactment of the bill described in sub-
2 section (a), it shall not be in order in either the Senate
3 or the House of Representatives to consider any bill or
4 resolution, or amendment thereto, which proposes the en-
5 actment of a tax expenditure provision (other than a reau-
6 thorization under subsection (c)) that does not have a re-
7 authorization date (and subsequent reauthorization dates)
8 which conform with the schedule provided in subsection
9 (a).

10 (e) Reauthorization dates shall be prescribed under
11 subsections (a) and (d) so as to provide for a review of
12 tax expenditure provisions during the same Congress as
13 the review under this title of programs and tax expendi-
14 ture provisions having similar objectives, consistent with
15 providing an even distribution of the work of reviewing
16 tax expenditure provisions during each Congress and tak-
17 ing into consideration the economic impact of the review
18 process and the interest of avoiding adverse impact on pre-
19 viously acquired assets.

20 SEC. 446. In carrying out the requirements of section
21 445 the Committee on Ways and Means, the Committee
22 on Finance, and the Congress may prescribe transition
23 rules and conforming and technical changes to minimize
24 unfairness, to mitigate any adverse effect which might re-
25 sult for taxpayers who have relied on a tax expenditure

1 provision, or to provide for an orderly end of the effective-
2 ness of any such provision.

3 SEC. 447. It shall not be in order in either the Senate
4 or the House of Representatives to consider a bill, resolu-
5 tion, or amendment thereto which proposes a reauthoriza-
6 tion date for a tax expenditure provision beyond the final
7 reauthorization date of the current sunset reauthorization
8 cycle.

9 SEC. 448. (a) It shall not be in order in either the
10 Senate or the House of Representatives to consider any
11 bill, resolution, or amendment thereto, which provides for
12 the reauthorization of a tax expenditure provision for a
13 taxable year beginning after the next reauthorization date
14 applicable to such provision, unless a reauthorization re-
15 view of such provision has been completed during the Con-
16 gress in which the reauthorization date for such provision
17 occurs, and the report accompanying such bill or resolu-
18 tion includes a recommendation as to whether the tax ex-
19 penditure provision should be continued without change,
20 continued with modifications, or terminated, and includes,
21 in the scope and detail the Committee on Ways and Means
22 and the Committee on Finance deem appropriate, the
23 following:

1 (1) information and analysis on the operation,
2 costs, results, accomplishments, and effectiveness of
3 the tax expenditure provision;

4 (2) an identification of any other tax expendi-
5 ture provisions or any other programs having similar
6 objectives, and a justification of the need for the
7 proposed tax expenditure in comparison with those
8 tax expenditure provisions or programs which may
9 be potentially conflicting or duplicative; and

10 (3) an identification of the objectives intended
11 for the tax expenditure provision, and the problem
12 or needs which the tax expenditure provision is in-
13 tended to address, including an analysis of the per-
14 formance expected to be achieved, based on the bill
15 or resolution as reported.

16 (b) It shall not be in order in either the Senate or
17 the House of Representatives to consider any bill, resolu-
18 tion, or amendment thereto, which proposes the enactment
19 of a new tax expenditure provision unless the bill, resolu-
20 tion, or amendment thereto is accompanied by a report
21 which sets forth, in the scope and detail the Committee
22 on Ways and Means and the Committee on Finance deem
23 appropriate, the information specified in subsections
24 (a)(2) and (a)(3) of this section.

Subtitle E—Miscellaneous

SEC. 451. Section 1108(e) of title 31, United States Code, is amended by inserting before the period a comma and “or at the request of a committee of either House of Congress presented after the day on which the President transmits the budget to the Congress under section 1105 of this title for the biennium”.

SEC. 452. Nothing in this title shall require the public disclosure of matters that are specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy and are in fact properly classified pursuant to such Executive order, or which are otherwise specifically protected by law.

SEC. 453. The provisions of this section and sections 411(a), 411(b), 411(c)(1), 411(c)(2), 411(c)(5), 412, 414(a), 414(c), 414(d), 414(e), 414(f), 414(g), subtitle C (except section 433), sections 445 (c) and (d), 447, and 448, section 455, and section 456 of this title are enacted by the Congress—

(1) as an exercise of the rulemaking power of the Senate and the House of Representatives respectively, and as such they shall be considered as part of the rules of each House, respectively, or of that House to which they specifically apply, and such

1 rules shall supersede other rules only to the extent
2 that they are inconsistent therewith; and

3 (2) with full recognition of the constitutional
4 right of either House to change such rules (so far
5 as relating to such House) at any time, in the same
6 manner, and to the same extent as in the case of
7 any other rule of such House.

8 SEC. 454. (a)(1) To assist in the review or reexam-
9 ination of a program, the head of an agency which admin-
10 isters such program and the head of any other agency,
11 when requested, shall provide to each committee of the
12 Senate and the House of Representatives which has legis-
13 lative jurisdiction over such program such studies, infor-
14 mation, analyses, reports, and assistance as the committee
15 may request.

16 (2) Not later than six months before the first reau-
17 thorization date specified for a program in section 411(b)
18 the head of the agency which administers such program
19 or the head of any other agency, when requested by a com-
20 mittee of the Senate or the House of Representatives, shall
21 conduct a review of those regulations currently promul-
22 gated and in use by that agency which the committee spe-
23 cifically has requested be reviewed and submit a report
24 to the Senate or the House of Representatives as the case
25 may be, setting forth the regulations that agency intends

1 to retain, eliminate, or modify if the program is reauthor-
2 ized and stating the basis for its decision.

3 (3) On or before October 1 of the year preceding the
4 beginning of the Congress in which occurs the reauthoriza-
5 tion date for a program, the Comptroller General shall fur-
6 nish to each committee of the Senate and the House of
7 Representatives which has legislative jurisdiction over
8 such program a listing of the prior audits and reviews of
9 such program completed during the preceding six years.

10 (4) Consistent with the discharge of the duties and
11 functions imposed by law on them or their respective Of-
12 fices or Service, the Comptroller General, the Director of
13 the Congressional Budget Office, the Director of the Of-
14 fice of Technology Assessment, and the Director of the
15 Congressional Research Service shall furnish to each com-
16 mittee of the Senate and the House of Representatives
17 such information, analyses, and reports as the committee
18 may request to assist it in conducting reviews or evalua-
19 tions of programs.

20 (b)(1) On or before October 1 of the year preceding
21 the beginning of the Congress in which occurs the reau-
22 thorization date for a program, the President, with the
23 cooperation of the head of each appropriate agency, shall
24 submit to the Congress a "Regulatory Duplication and

1 Conflicts Report” for all such programs scheduled for re-
2 authorization in the next Congress.

3 (2) Each such regulatory duplication and conflicts re-
4 port shall—

5 (A) identify regulatory policies, including data
6 collection requirements, of such programs or the
7 agencies which administer them, which duplicate or
8 conflict with each other or with rules or regulations
9 or regulatory policies of other programs or agencies,
10 and identify the provisions of law which authorize or
11 require such duplicative or conflicting regulatory
12 policies or the promulgation of such duplicative or
13 conflicting rules or regulations;

14 (B) identify the regulatory policies, including
15 data collection requirements, of such programs
16 which are, or which tend to be, duplicative of or in
17 conflict with rules or regulations or regulatory poli-
18 cies of State or local governments; and

19 (C) contain recommendations which address the
20 conflicts or duplications identified in subparagraphs
21 (A) and (B).

22 (3) The regulatory duplication and conflicts report
23 submitted by the President pursuant to this subsection
24 shall be referred to the committee or committees of the

1 House of Representatives and the Senate with legislative
2 jurisdiction over the programs affected by the reports.

3 SEC. 455. (a) Not later than 15 days after the begin-
4 ning of the second regular session of the Congress in
5 which occurs the reauthorization date applicable to a pro-
6 gram under section 411(b), the chairmen of the commit-
7 tees of the Senate and the House of Representatives hav-
8 ing legislative jurisdiction over such programs shall intro-
9 duce, in their respective Houses, a bill which, if enacted
10 into law, would constitute a required authorization (as de-
11 fined in section 411(c)(1)(B)), and such a bill (hereafter
12 in this section referred to as a "sunset reauthorization
13 bill") shall be referred to the appropriate committee of the
14 Senate or the House of Representatives, as the case may
15 be. This subsection shall not apply in the case of a pro-
16 gram which has been reauthorized by a required author-
17 ization which was signed into law by the President prior
18 to fifteen days after the beginning of the second regular
19 session of the Congress in which occurs the reauthoriza-
20 tion date applicable to such program.

21 (b) If the committee to which a sunset reauthoriza-
22 tion bill for a program has not reported such bill by May
23 15 of the year in which the reauthorization date for such
24 program occurs, and no other bill which would constitute
25 a required authorization for such program has been en-

1 acted into law by that date, it is in order to move to dis-
2 charge the committee from further consideration of the
3 sunset reauthorization bill at any time thereafter.

4 (c) The provisions of section 912(a) of title 5, United
5 States Code, as it relates to the discharge of resolutions
6 of disapproval on reorganization plans, shall apply to mo-
7 tions to discharge sunset reauthorization bills, and the
8 provisions of subsections (b)(2), (c) (2) through (5), and
9 (d) of section 1017 of the Impoundment Control Act of
10 1974, insofar as they relate to the consideration of rescis-
11 sion bills shall apply to the consideration of such sunset
12 reauthorization bills, amendments thereto, motions and
13 appeals with respect thereto, and conference reports there-
14 on.

15 SEC. 456. The Committees on Governmental Affairs
16 and on Rules and Administration of the Senate and the
17 Committees on Government Operations and on Rules of
18 the House of Representatives shall review the operation
19 of the procedures established by this title, and shall submit
20 a report not later than December 31, 1998, and each five
21 years thereafter, setting forth their findings and rec-
22 ommendations. Such reviews and reports may be con-
23 ducted jointly.

24 SEC. 457. There are authorized to be appropriated
25 for bienniums ending before October 1, 2002, such sums

1 as may be necessary to carry out the review requirement
2 of subtitles A and C and the requirements for the compila-
3 tion of the inventory of Federal programs as set forth in
4 subtitle D.

5 **TITLE V—EXPEDITED** 6 **RESCISSION AUTHORITY**

7 **SEC. 501. EXPEDITED CONSIDERATION OF CERTAIN PRO-** 8 **POSED RESCISSIONS.**

9 (a) IN GENERAL.—Part B of title X of the Congres-
10 sional Budget and Impoundment Control Act of 1974 (2
11 U.S.C. 681 et seq.) is amended by redesignating sections
12 1013 through 1017 as sections 1014 through 1018, re-
13 spectively, and inserting after section 1012 the following
14 new section:

15 “EXPEDITED CONSIDERATION OF CERTAIN PROPOSED 16 RESCISSIONS

17 “SEC. 1013. (a) PROPOSED RESCISSION OF BUDGET
18 AUTHORITY.—In addition to the method of rescinding
19 budget authority specified in section 1012, the President
20 may propose, at the time and in the manner provided in
21 subsection (b), the rescission of all or part of any budget
22 authority provided in an appropriations Act.

23 “(b) TRANSMITTAL OF SPECIAL MESSAGE.—

24 “(1) Not later than 10 days after the date on
25 which the President approves an appropriation Act,
26 the President may—

1 “(A) transmit to the Congress one or more
2 special messages proposing to rescind specific
3 line item amounts of budget authority provided
4 in that Act; and

5 “(B) transmit with each separate special
6 message a draft bill or joint resolution that, if
7 enacted, would rescind that specific budget
8 authority.

9 “(2) Each special message referred to in para-
10 graph (1) shall be limited to a single item of rescis-
11 sion of budget authority. If the bill or resolution en-
12 acted contains more than a single item of rescission,
13 the President shall transmit as many separate mes-
14 sages as there are items of rescission.

15 “(3) Each special message shall specify, with
16 respect to the budget authority proposed to be re-
17 scinded, the matters referred to in paragraphs (1)
18 through (5) of section 1012(a).

19 “(c) PROCEDURES FOR EXPEDITED CONSIDER-
20 ATION.—

21 “(1)(A) On the date on which a special message
22 is transmitted to the Congress under subsection (b),
23 or as soon thereafter as possible, the majority leader
24 or minority leader of the House of the Congress in
25 which the appropriation Act involved first originated

1 shall introduce (by request) the draft bill or joint
2 resolution accompanying that special message. If the
3 bill or joint resolution is not introduced as provided
4 in the preceding sentence, then any Member of that
5 House may introduce the bill or joint resolution.

6 “(B) The bill or joint resolution shall be re-
7 ferred to the Committee on Appropriations of that
8 House. The committee shall report the bill or joint
9 resolution without substantive revision and with or
10 without recommendation. The bill or joint resolution
11 shall be reported not later than the end of the period
12 (not to exceed 7 days) established for consideration
13 of the bill or joint resolution by the Speaker of the
14 House of Representatives or the majority leader of
15 the Senate, as the case may be. A committee failing
16 to report the bill or joint resolution within such pe-
17 riod shall be automatically discharged from consider-
18 ation of the bill or joint resolution, and the bill or
19 joint resolution shall be placed on the appropriate
20 calendar.

21 “(C) A vote on final passage of the bill or joint
22 resolution shall be taken in that House on or before
23 the close of the 10th calendar day of continuous ses-
24 sion of the Congress after the date of the introduc-
25 tion of the bill or joint resolution in that House. If

1 the bill or joint resolution is agreed to, the Clerk of
2 the House of Representatives (in the case of a bill
3 or joint resolution agreed to in the House of Rep-
4 resentatives) or the Secretary of the Senate (in the
5 case of a bill or joint resolution agreed to in the
6 Senate) shall cause the bill or joint resolution to be
7 engrossed, certified, and transmitted to the other
8 House of the Congress on the same calendar day on
9 which the bill or joint resolution is agreed to.

10 “(2)(A) A bill or joint resolution transmitted to
11 the House of Representatives or the Senate pursu-
12 ant to paragraph (1)(C) shall be referred to the
13 Committee on Appropriations of that House. The
14 committee shall report the bill or joint resolution
15 without substantive revision and with or without rec-
16 ommendation. The bill or joint resolution shall be re-
17 ported not later than the end of the period (not to
18 exceed 7 days) established for consideration of the
19 bill or joint resolution by the Speaker of the House
20 of Representatives or the majority leader of the Sen-
21 ate, as the case may be. A committee failing to re-
22 port the bill or joint resolution within such period
23 shall be automatically discharged from consideration
24 of the bill or joint resolution, and the bill or joint

1 resolution shall be placed upon the appropriate
2 calendar.

3 “(B) A vote on final passage of a bill or joint
4 resolution transmitted to that House shall be taken
5 on or before the close of the 10th calendar day of
6 continuous session of the Congress after the date on
7 which the bill or joint resolution is transmitted. If
8 the bill or joint resolution is agreed to in that
9 House, the Clerk of the House of Representatives
10 (in the case of a bill or joint resolution agreed to in
11 the House of Representatives) or the Secretary of
12 the Senate (in the case of a bill or joint resolution
13 agreed to in the Senate) shall cause the engrossed
14 bill or joint resolution to be returned to the House
15 in which the bill or joint resolution originated, to-
16 gether with a statement of the action taken by the
17 House acting under this paragraph.

18 “(3)(A) A motion in the House of Representa-
19 tives to proceed to the consideration of a bill or joint
20 resolution under this section shall be highly privi-
21 leged and not debatable. An amendment to the mo-
22 tion shall not be in order, nor shall it be in order
23 to move to reconsider the vote by which the motion
24 is agreed to or disagreed to.

1 “(B) Debate in the House of Representatives
2 on a bill or joint resolution under this section shall
3 be limited to not more than 1 hour, which shall be
4 divided equally between those favoring and those op-
5 posing the bill or joint resolution. A motion further
6 to limit debate shall not be debatable and shall re-
7 quire an affirmative vote of two-thirds of the Mem-
8 bers voting, a quorum being present. It shall not be
9 in order to move to recommit a bill or joint resolu-
10 tion under this section or to move to reconsider the
11 vote by which the bill or joint resolution is agreed
12 to or disagreed to.

13 “(C) All appeals from the decisions of the Chair
14 relating to the application of the Rules of the House
15 of Representatives to the procedure relating to a bill
16 or joint resolution under this section shall be decided
17 without debate.

18 “(D) Except to the extent specifically provided
19 in the preceding provisions of this subsection, con-
20 sideration of a bill or joint resolution under this sec-
21 tion shall be governed by the Rules of the House of
22 Representatives applicable to other bills and joint
23 resolutions in similar circumstances.

24 “(4)(A) A motion in the Senate to proceed to
25 the consideration of a bill or joint resolution under

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1 this section shall be privileged and not debatable. An
2 amendment to the motion shall not be in order, nor
3 shall it be in order to move to reconsider the vote
4 by which the motion is agreed to or disagreed to.

5 “(B) Debate in the Senate on a bill or joint res-
6 olution under this section, and all debatable motions
7 and appeals in connection therewith, shall be limited
8 to not more than 1 hour. The time shall be equally
9 divided between, and controlled by, the majority
10 leader and the minority leader or their designees.

11 “(C) Debate in the Senate on any debatable
12 motion or appeal in connection with a bill or joint
13 resolution under this section shall be limited to not
14 more than 1 hour, to be equally divided between,
15 and controlled by, the mover and the manager of the
16 bill or joint resolution, except that in the event the
17 manager of the bill or joint resolution is in favor of
18 any such motion or appeal, the time in opposition
19 thereto, shall be controlled by the minority leader or
20 his designee. Such leaders, or either of them, may,
21 from time under their control on the passage of a
22 bill or joint resolution, allot additional time to any
23 Senator during the consideration of any debatable
24 motion or appeal.

1 “(D) A motion in the Senate to further limit
2 debate on a bill or joint resolution under this section
3 is not debatable. A motion to recommit a bill or joint
4 resolution under this section is not in order.

5 “(d) AMENDMENTS PROHIBITED.—No amendment to
6 a bill or joint resolution considered under this section shall
7 be in order in either the House of Representatives or the
8 Senate. No motion to suspend the application of this sub-
9 section shall be in order in either House, nor shall it be
10 in order in either House for the Presiding Officer to enter-
11 tain a request to suspend the application of this subsection
12 by unanimous consent.

13 “(e) REQUIREMENT TO MAKE AVAILABLE FOR OBLI-
14 GATION.—Any amount of budget authority proposed to be
15 rescinded in a special message transmitted to the Congress
16 under subsection (b) shall be made available for obligation
17 after the date on which the Congress fails to pass the bill
18 or joint resolution transmitted with that special message.

19 “(f) APPROPRIATION ACT DEFINED.—For purposes
20 of this section, the term ‘appropriation Act’ means any
21 general or special appropriation Act, and any Act or joint
22 resolution making supplemental, deficiency, or continuing
23 appropriations.”.

24 (b) EXERCISE OF RULEMAKING POWERS.—Section
25 904 of such Act (2 U.S.C. 621 note) is amended—

1 (1) by striking out “and 1017” in subsection
2 (a) and inserting in lieu thereof “1013, and 1018”;
3 and

4 (2) by striking out “section 1017” in subsection
5 (d) and inserting in lieu thereof “sections 1013 and
6 1018”.

7 (c) CONFORMING AMENDMENTS.—

8 (1) Paragraph (5) of section 1011 of such Act
9 (2 U.S.C. 682(5)) is amended—

10 (A) by striking out “1012, and” and in-
11 serting in lieu thereof “1012, the time periods
12 referred to in subsections (c) and (d) of section
13 1013, and”;

14 (B) by striking out “1012 during” and in-
15 serting in lieu thereof “1012 or 1013 during”;

16 (C) by striking out “of 45” and inserting
17 in lieu thereof “of the applicable number of”;
18 and

19 (D) by striking out “45-day period re-
20ferred to in paragraph (3) of this section and
21 in section 1012” and inserting in lieu thereof
22 “period or periods of time applicable under
23 such section”.

24 (2) Such section is further amended—

1 (A) in paragraph (4), by striking out
2 "1013" and inserting in lieu thereof "1014";
3 and

4 (B) in paragraph (5)—

5 (i) by striking out "1016" and insert-
6 ing in lieu thereof "1017"; and

7 (ii) by striking out "1017(b)(1)" and
8 inserting in lieu thereof "1018(b)(1)".

9 (3) Section 1015 of such Act (as redesignated
10 by section 3(a)) (2 U.S.C. 685) is amended—

11 (A) by striking out "1012 or 1013" each
12 place it appears and inserting in lieu thereof
13 "1012, 1013, or 1014";

14 (B) in subsection (b)(1), by striking out
15 "1012" and inserting in lieu thereof "1012 or
16 1013";

17 (C) in subsection (b)(2), by striking out
18 "1013" and inserting in lieu thereof "1014";
19 and

20 (D) in subsection (e)(2)—

21 (i) by striking out "and" at the end of
22 subparagraph (A);

23 (ii) by redesignating subparagraph

24 (B) as subparagraph (C);

1 (iii) by striking out "1013" in sub-
2 paragraph (C) (as so redesignated) and in-
3 serting in lieu thereof "1014"; and

4 (iv) by inserting after subparagraph
5 (A) the following new subparagraph:

6 "(B) he has transmitted a special message
7 under section 1013 with respect to a proposed
8 rescission; and".

9 (4) Section 1016 of such Act (as redesignated
10 by section 3(a)) (2 U.S.C. 686) is amended by strik-
11 ing out "1012 or 1013" each place it appears and
12 inserting in lieu thereof "1012, 1013, or 1014".

13 (d) CLERICAL AMENDMENTS.—The table of sections
14 for subpart B of title X of such Act is amended—

15 (1) by redesignating the items relating to sec-
16 tions 1013 through 1017 as items relating to sec-
17 tions 1014 through 1018; and

18 (2) by inserting after the item relating to sec-
19 tion 1012 the following new item:

"Sec. 1013. Expedited consideration of certain proposed rescissions."

20 **SEC. 502. APPLICATION.**

21 Section 1013 of the Congressional Budget and Im-
22 poundment Control Act of 1974 (as added by section 501
23 of this Act) shall apply to amounts of budget authority
24 provided by appropriation Acts (as defined in subsection

1 (f)(2) of such section) that are enacted after the date of
2 the enactment of this Act.

3 **TITLE VI—PERFORMANCE-** 4 **BASED BUDGETING**

5 **SEC. 601. FINDINGS AND PURPOSES.**

6 (a) FINDINGS.—The Congress finds that—

7 (1) despite major efforts by the Congress and
8 the Executive Branch to improve the financial man-
9 agement of the Federal Government, unacceptable
10 waste and mismanagement persists in Federal pro-
11 grams;

12 (2) waste and mismanagement place an intoler-
13 able burden on the limited resources of important
14 Federal programs, reducing the ability of such pro-
15 grams to adequately address vital needs;

16 (3) much of the public's opposition to increased
17 taxes is based on a belief that taxpayers are not get-
18 ting full value for their tax dollar;

19 (4) because financial management systems
20 focus on how money is spent, but not on how well
21 it is spent and the value received for it, the Federal
22 Government is handicapped in its ability to identify
23 wasteful or ineffective programs; and

24 (5) the Congress is further handicapped in its
25 ability to conduct adequate and thorough oversight

1 of Federal programs, because few programs have
2 measurable goals against which to track and com-
3 pare performance.

4 (b) PURPOSES.—The purposes of this title are—

5 (1) to strengthen Government accountability by
6 showing the American taxpayers what results to ex-
7 pect for their tax dollars when a program is funded,
8 and what results the taxpayers actually receive;

9 (2) to improve congressional oversight and the
10 uncovering of waste and mismanagement, by requir-
11 ing that measurable performance standards and
12 goals be established for all Federal programs and
13 that each Federal department and agency issue an
14 annual program performance report showing pro-
15 gram accomplishment;

16 (3) to free additional resources for vital Federal
17 programs, by reducing waste, reforming or eliminat-
18 ing ineffective programs, and allowing the targeting
19 of funds to those programs achieving the best re-
20 sults;

21 (4) to change the Federal budget from a politi-
22 cal document into a policy-making and management
23 tool, by requiring that the budget incorporate a per-
24 formance standards and goals plan for Federal
25 spending.

1 **SEC. 602. PERFORMANCE STANDARDS AND GOALS PLANS.**

2 (a) BUDGET CONTENTS AND SUBMISSION TO CON-
3 GRESS.—Section 1105(a) of title 31, United States Code,
4 is amended by adding at the end thereof the following new
5 paragraph:

6 “(29) a Federal performance standards and
7 goals plan for the overall budget as provided for
8 under section 1115.”.

9 (b) PERFORMANCE STANDARDS AND GOALS
10 PLANS.—Chapter 11 of title 31, United States Code, is
11 amended by adding after section 1114 the following new
12 sections:

13 **“§ 1115. Performance standards and goals plans**

14 “(a) In carrying out the provisions of section
15 1105(a)(29), the Office of Management and Budget shall
16 promulgate regulations requiring each department and
17 agency to establish a performance standards and goals
18 plan for each major expenditure category of the budget
19 of such department or agency. Such plan shall—

20 “(1) establish performance indicators to be used
21 to define and measure the outputs, products, serv-
22 ices, and results of each expenditure allocated;

23 “(2) establish performance standards and goals
24 to define and measure the specific service or product
25 to be achieved or produced for the expenditure allo-
26 cated;

1 “(3) express such standards and goals in an ob-
2 jective, quantifiable, and measurable form unless
3 permitted in an alternative form under subsection
4 (b);

5 “(4) establish major expenditure categories of
6 related functions of such agency or department for
7 the analysis of performance standards and goals;

8 “(5) include actual program results compared
9 with original performance standards and goals, inte-
10 grated with program cost information, to show
11 trends in costs per unit-of-result, unit-of-service, or
12 other unit-of-output;

13 “(6) review the success of achieving the per-
14 formance standards and goals of the preceding bien-
15 nium; and

16 “(7) evaluate the performance standards and
17 goals for the biennium relative to the results
18 achieved for the performance standards and goals in
19 the preceding biennium.

20 “(b) If the Office of Management and Budget deter-
21 mines that it is not feasible to express the performance
22 standards and goals of a particular program in an expend-
23 iture category in an objective and quantifiable form, the
24 Office of Management and Budget may authorize an alter-

1 native form. Such alternative form shall include separate
2 descriptive statements of both—

3 “(1) a minimally effective program, and

4 “(2) a successful program,

5 with sufficient precision and in such terms that would
6 allow for an accurate, independent determination of
7 whether the program’s performance meets the criteria of
8 either description.

9 “(c) The Office of Management and Budget shall re-
10 view and adjust the department and agency plans estab-
11 lished under subsection (a) and establish an overall per-
12 formance standards and goals plan for the Federal Gov-
13 ernment.

14 **“§ 1116. Program performance reports**

15 “(a) By December 31 of each odd-numbered year, the
16 head of each department and agency shall prepare and
17 submit to the President and the Congress, a report on the
18 program performance for the previous biennium.

19 “(b) Each program performance report shall enumer-
20 ate all performance indicators established in the depart-
21 mental or agency performance standards and goals plan,
22 along with the performance goals and the actual results
23 achieved for the previous biennium and the goals for the
24 current biennium. Program costs and, where applicable,
25 trends in costs per unit-of-result, unit-of-service, or other

1 unit-of-output shall be shown. Where the performance
2 standards and goals are specified by descriptive state-
3 ments of a minimally effective program and a successful
4 program, the results of such program shall be described
5 in relationship to those categories, including whether the
6 results failed to meet the criteria of either category.

7 “(c) Where a performance standard or goal has not
8 been met, including when a program’s results are not de-
9 termined to have met the criteria of a successful program,
10 the report shall explain—

11 “(1) why the goal was not met, including an in-
12 dication of any managerial deficiencies or of any
13 legal obstaeles;

14 “(2) plans and schedule for achieving the estab-
15 lished performance goal;

16 “(3) recommended legislative or regulatory
17 changes necessary to achieve the goal; and

18 “(4) if the performance standard or goal is im-
19 practical or infeasible, why that is the case and what
20 action is recommended, including whether the goal
21 should be changed or the program altered or elimi-
22 nated.

23 “(d) By December 31 of each odd-numbered year, the
24 Office of Management and Budget shall prepare and sub-
25 mit to the President and the Congress, a report on all

1 tax expenditures that reduced revenues by at least \$2 bil-
2 lion in the previous biennium.”.

3 (c) **TECHNICAL AND CONFORMING AMENDMENT.**—

4 The table of sections for chapter 11 of title 31, United
5 States Code, is amended by adding after the item relating
6 to section 1114 the following new items:

“1115. Performance standards and goals plans.

“1116. Program performance reports.”.

7 **SEC. 603. CONGRESSIONAL ESTABLISHMENT OF PERFORM-**

8 **ANCE STANDARDS AND GOALS.**

9 (a) **IN GENERAL.**—It shall not be in order for either
10 the House of Representatives or the Senate to consider
11 any bill or resolution (or amendment thereto) which pro-
12 vides for the authorization of appropriations or for the ap-
13 propriation of funds, unless such bill or resolution (or
14 amendment thereto) specifies performance standards and
15 goals for such authorization or appropriation.

16 (b) **PERFORMANCE STANDARDS AND GOALS.**—(1)

17 The program performance standards and goals required
18 under subsection (a) shall—

19 (A) specify either—

20 (i) objective, quantifiable, and measurable
21 standards and goals expected to be achieved, or

22 (ii) separate descriptive statements of a
23 minimally effective program and of a successful
24 program, with sufficient precision and in such

1 terms that would allow for an accurate, inde-
2 pendent determination of whether the pro-
3 gram's performance meets the criteria of either
4 description;

5 (B) include indicators of cost per unit-of-result,
6 unit-of-service, or other unit-of-output, of the type
7 specified in the legislation authorizing the appropria-
8 tion or relevant program; and

9 (C) be established after review of the plan es-
10 tablished under section 1115 of title 31, United
11 States Code.

12 (2) An appropriation Act may specify a lesser amount
13 of a performance standard or goal to be achieved than is
14 provided by the authorizing legislation, but may not
15 change the specific type of standard or goal.

16 (c) WAIVER.—This section may be waived or sus-
17 pended in the Senate only by the affirmative vote of three-
18 fifths of the Members, duly chosen and sworn, and in the
19 House of Representatives only by resolution reported by
20 the Committee on Rules and adopted by the House.

TITLE VII—INCREMENTAL- BASED BUDGETING

SEC. 701. INCREMENTAL-BASED BUDGETING

(a) INCREMENTAL-BASED BUDGETING REGULATIONS.—Section 1109 of chapter 11 of title 31, United States Code, is amended to read as follows:

“§ 1109. Incremental-based budgeting

“(a) The Office of Management and Budget shall promulgate regulations requiring each department and agency to require that—

“(1) officers and employees who submit budgets to the head of that department or agency—

“(A) be required to submit at least 2 budgets: one that sets forth spending at least 5 percent lower than the prior biennium’s budget and the other that sets forth spending at least 15 percent lower than the prior biennium’s budget; and

“(B) in such budgets detail specific gains and losses of project performance at each such incremental budget level as compared to other proposed budget levels; and

“(2) the head of each department or agency submit to the Office of Management and Budget at least one budget for that department or agency that

1 sets forth spending at least 10 percent lower than
2 the prior biennium's budget.

3 “(b) Whenever the Office of Management and Budget
4 reports an estimated budget deficit under section 105(a)
5 of the Comprehensive Budget Process Reform Act of
6 1993, not later than October 15 of that calendar year,
7 the President shall submit to Congress a report that would
8 either—

9 “(1) recommend specific changes in outlays or
10 revenues sufficient to eliminate that deficit, or

11 (2) recommend waiver of the requirement to
12 eliminate that deficit.”.

13 (b) TECHNICAL AND CONFORMING AMENDMENT.—
14 The item relating to section 1109 in the table of sections
15 for chapter 11 of title 31, United States Code, is amended
16 to read as follows:

 “1109. Incremental-based budgeting.”.

May 26, 1993

[From the Congressional Record page D589]

FEDERAL CAPITAL BUDGET AND MISCELLANEOUS MEASURES

Committee on Public Works and Transportation: Subcommittee on Economic Development held a hearing on the desirability of establishing a Federal Capital Budget and the following bills: H.R. 1050, to improve budgetary information by requiring that the unified budget presented by the President contain an operating budget and a capital budget, distinguish between Federal funds and trust funds; H.R. 1138, to restructure the Federal budget process; and H.R. 1182, to improve budgetary information by requiring that the unified budget presented by the President contain an operating budget and a capital budget distinguish between general funds, trust funds, and enterprise funds. Testimony was heard from Robert W. Hartman, Assistant Director, Special Studies Division, CBO; Paul L. Posner, Director, Budget Issues, Accounting and Financial Management Division, GAO; and public witnesses.

June 16, 1993

[From the Congressional Record page D667]

ESTABLISHING FEDERAL CAPITAL BUDGET AND MISCELLANEOUS MEASURES

Committee on Public Works and Transportation: Subcommittee on Economic Development continued hearings on the desirability of establishing a Federal Capital Budget and the following bills: H.R. 1050, to improve budgetary information by requiring that the unified budget presented by the President contain an operating budget and a capital budget, distinguish between Federal funds and trust funds; H.R. 1138, to restructure the Federal budget process; and H.R. 1182, to improve budgetary information by requiring that the unified budget presented by the President contain an operating budget and a capital budget, distinguish between Federal funds and trust funds; H.R. 1138, to restructure the Federal budget process; and H.R. 1182, to improve budgetary information by requiring that the unified budget presented by the President contain an operating budget and a capital budget distinguish between general funds, trust funds, and enterprise funds. Testimony was heard from P. Gerald Thacker, Commissioner, Public Buildings Service, GSA; and public witnesses.

March 9, 1993

[From the Congressional Record page H1079]

I

103D CONGRESS
1ST SESSION

H. R. 1253

To give the President line-item veto rescission authority over appropriation bills.

IN THE HOUSE OF REPRESENTATIVES

MARCH 9, 1993

Mr. BUNNING introduced the following bill; which was referred jointly to the Committees on Government Operations and Rules

A BILL

To give the President line-item veto rescission authority over appropriation bills.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “The Legislative Line
5 Item Veto Act of 1993”.

6 **SEC. 2. LEGISLATIVE LINE ITEM VETO RESCISSION AU-**
7 **THORITY.**

8 (a) IN GENERAL.—Notwithstanding the provisions of
9 part B of title X of The Congressional Budget and Im-
10 poundment Control Act of 1974, and subject to the provi-

1 sions of this section, the President may rescind all or part
2 of any discretionary budget authority pursuant to this Act
3 if the President—

4 (1) determines that such rescission—

5 (A) would help reduce the Federal budget
6 deficit;

7 (B) will not impair any essential Govern-
8 ment functions; and

9 (C) will not harm the national interest;
10 and

11 (2) notifies the Congress of such rescission by
12 a special message not later than twenty calendar
13 days (not including Saturdays, Sundays, or holidays)
14 after the date of enactment of a regular or supple-
15 mental appropriation Act or a joint resolution mak-
16 ing continuing appropriations providing such budget
17 authority.

18 The President shall submit a separate rescission message
19 for each item rescinded under this paragraph.

20 **SEC. 3. RESCISSION EFFECTIVE UNLESS DISAPPROVED.**

21 (a) Any amount of budget authority rescinded under
22 this Act as set forth in a special message by the President
23 shall be deemed canceled unless during the period de-
24 scribed in subsection (b), a rescission disapproval bill mak-

1 ing available all of the amount rescinded is enacted into
2 law.

3 (b) The period referred to in subsection (a) is—

4 (1) a congressional review period of 20 calendar
5 days of session during which Congress must com-
6 plete action on the rescission disapproval bill and
7 present such bill to the President for approval or
8 disapproval;

9 (2) after the period provided in paragraph (1),
10 an additional ten days (not including Sundays) dur-
11 ing which the President may exercise his authority
12 to sign or veto the rescission disapproval bill; and

13 (3) if the President vetoes the rescission dis-
14 approval bill during the period provided in para-
15 graph (2), an additional five calendar days of session
16 after the date of the veto.

17 (c) If a special message is transmitted by the Presi-
18 dent under this Act and the last session of the Congress
19 adjourns sine die before the expiration of the period de-
20 scribed in subsection (b), the rescission shall not take ef-
21 fect. The message shall be deemed to have been
22 retransmitted on the first day of the succeeding Congress
23 and the review period referred to in subsection (b) (with
24 respect to such message) shall run beginning after such
25 first day.

1 **SEC. 4. DEFINITIONS.**

2 For purposes of this Act—

3 (a) the term “rescission disapproval bill” means
4 a bill or joint resolution which only disapproves a re-
5 scission of discretionary budget authority, in whole,
6 rescinded in a special message transmitted by the
7 President under this Act; and

8 (b) the term “calendar days of session” shall
9 mean only those days on which both Houses of Con-
10 gress are in session.

11 **SEC. 5. CONGRESSIONAL CONSIDERATION OF LINE ITEM**
12 **VETO RESCISSIONS.**

13 (a) **PRESIDENTIAL SPECIAL MESSAGE.**—Whenever
14 the President rescinds any budget authority as provided
15 in this Act, the President shall transmit to both Houses
16 of Congress a special message specifying—

17 (1) the amount of budget authority rescinded;

18 (2) any account, department, or establishment
19 of the Government to which such budget authority
20 is available for obligation, and the specific project or
21 governmental functions involved;

22 (3) the reasons and justifications for the deter-
23 mination to rescind budget authority pursuant to
24 this Act;

1 (4) to the maximum extent practicable, the esti-
2 mated fiscal, economic, and budgetary effect of the
3 rescission; and

4 (5) all facts, circumstances, and considerations
5 relating to or bearing upon the rescission and the
6 decision to effect the rescission, and to the maxi-
7 mum extent practicable, the estimated effect of the
8 rescission upon the objects, purposes, and programs
9 for which the budget authority is provided.

10 (b) TRANSMISSION OF MESSAGES TO HOUSE AND
11 SENATE.—

12 (1) Each special message transmitted under
13 this Act shall be transmitted to the House of Rep-
14 resentatives and the Senate on the same day, and
15 shall be delivered to the Clerk of the House of Rep-
16 resentatives if the House is not in session, and to
17 the Secretary of the Senate if the Senate is not in
18 session. Each special message so transmitted shall
19 be referred to the appropriate committees of the
20 House of Representatives and the Senate. Each such
21 message shall be printed as a document of each
22 House.

23 (2) Any special message transmitted under this
24 Act shall be printed in the first issue of the Federal
25 Register published after such transmittal.

1 (c) REFERRAL OF RESCISSION DISAPPROVAL
2 BILLS.—Any rescission disapproval bill introduced with
3 respect to a special message shall be referred to the appro-
4 priate committees of the House of Representatives or the
5 Senate, as the case may be.

6 (d) CONSIDERATION IN THE SENATE.—

7 (1) Any rescission disapproval bill received in
8 the Senate from the House shall be considered in
9 the Senate pursuant to the provisions of this Act.

10 (2) Debate in the Senate on any rescission dis-
11 approval bill and debatable motions and appeals in
12 connection therewith, shall be limited to not more
13 than ten hours. The time shall be equally divided be-
14 tween, and controlled by, the majority leader and the
15 minority leader or their designees.

16 (3) Debate in the Senate on any debatable mo-
17 tions or appeal in connection with such bill shall be
18 limited to one hour, to be equally divided between,
19 and controlled by the mover and the manager of the
20 bill, except that in the event the manager of the bill
21 is in favor of any such motion or appeal, the time
22 in opposition thereto shall be controlled by the mi-
23 nority leader or his designee. Such leaders, or either
24 of them, may, from the time under their control on
25 the passage of the bill, allot additional time to any

1 Senator during the consideration of any debatable
2 motion or appeal.

3 (4) A motion to further limit debate is not de-
4 batable. A motion to recommit (except a motion to
5 recommit with instructions to report back within a
6 specified number of days not to exceed one, not
7 counting any day on which the Senate is not in ses-
8 sion) is not in order.

9 (e) POINTS OF ORDER.—

10 (1) It shall not be in order in the Senate or the
11 House of Representatives to consider any rescission
12 disapproval bill that relates to any matter other than
13 the rescission budget authority transmitted by the
14 President under this Act.

15 (2) It shall not be in order in the Senate or the
16 House of Representatives to consider any amend-
17 ment to a rescission disapproval bill.

18 (3) Paragraphs (1) and (2) may be waived or
19 suspended in the Senate only by a vote of three-
20 fifths of the members duly chosen and sworn.

March 29, 1993

[From the Congressional Record page H1686]

I

103D CONGRESS
1ST SESSION

H. R. 1514

To amend the Congressional Budget and Impoundment Control Act of 1974 to provide for the expedited consideration of certain proposed congressionally approved amendments to the Internal Revenue Code of 1986.

IN THE HOUSE OF REPRESENTATIVES

MARCH 29, 1993

Mr. SLATTERY introduced the following bill; which was referred jointly to the Committees on Ways and Means and Rules

A BILL

To amend the Congressional Budget and Impoundment Control Act of 1974 to provide for the expedited consideration of certain proposed congressionally approved amendments to the Internal Revenue Code of 1986.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the "Expedited Consider-
5 ation of Proposed Revenue Amendments Act of 1993".

2

1 **SEC. 2. EXPEDITED CONSIDERATION OF CERTAIN PRO-**
2 **POSED RESCISSIONS.**

3 (a) **IN GENERAL.**—Part B of title X of the Congres-
4 sional Budget and Impoundment Control Act of 1974 (2
5 U.S.C. 681 et seq.) is amended by redesignating sections
6 1013 through 1017 as sections 1014 through 1018, re-
7 spectively, and inserting after section 1012 the following
8 new section:

9 **“EXPEDITED CONSIDERATION OF CERTAIN PROPOSED**
10 **REVENUE AMENDMENTS**

11 **“SEC. 1013. (a) PROPOSED AMENDMENTS TO THE**
12 **INTERNAL REVENUE CODE OF 1986.**—The President may
13 propose, at the time and in the manner provided in sub-
14 section (b), the repeal of any provisions of the Internal
15 Revenue Code.

16 **“(b) TRANSMITTAL OF SPECIAL MESSAGE.**—Not
17 later than 3 days after the date of enactment of a law
18 amending the Internal Revenue Code of 1986, the Presi-
19 dent may transmit to Congress a special message propos-
20 ing to repeal any amendments contained in that law and
21 include with that special message a draft bill or joint reso-
22 lution that, if enacted, would only repeal those amend-
23 ments.

24 **“(c) PROCEDURES FOR EXPEDITED CONSIDER-**
25 **ATION.**—

1 “(1)(A) Before the close of the second day of
2 continuous session of the applicable House after the
3 date of receipt of a special message transmitted to
4 Congress under subsection (b), the majority leader
5 or minority leader of the House of Congress in
6 which the law involved originated shall introduce (by
7 request) the draft bill or joint resolution accompany-
8 ing that special message. If the bill or joint resolu-
9 tion is not introduced as provided in the preceding
10 sentence, then, on the third day of continuous ses-
11 sion of that House after the date of receipt of that
12 special message, any Member of that House may in-
13 troduce the bill or joint resolution.

14 “(B) The bill or joint resolution shall be re-
15 ferred to the Committee on Ways and Means or the
16 Committee on Finance, as the case may be. The
17 committee shall report the bill or joint resolution
18 without substantive revision and with or without rec-
19 ommendation. The bill or joint resolution shall be re-
20 ported not later than the seventh day of continuous
21 session of that House after the date of receipt of
22 that special message. If the committee fails to report
23 the bill or joint resolution within that period, that
24 committee shall be automatically discharged from
25 consideration of the bill or joint resolution, and the

1 bill or joint resolution shall be placed on the appro-
2 priate calendar.

3 “(C) A vote on final passage of the bill or joint
4 resolution shall be taken in that House on or before
5 the close of the 10th calendar day of continuous ses-
6 sion of that House after the date of the introduction
7 of the bill or joint resolution in that House. If the
8 bill or joint resolution is agreed to, the Clerk of the
9 House of Representatives (in the case of a bill or
10 joint resolution agreed to in the House of Represent-
11 atives) or the Secretary of the Senate (in the case
12 of a bill or joint resolution agreed to in the Senate)
13 shall cause the bill or joint resolution to be en-
14 grossed, certified, and transmitted to the other
15 House of Congress on the same calendar day on
16 which the bill or joint resolution is agreed to.

17 “(2)(A) A bill or joint resolution transmitted to
18 the House of Representatives or the Senate pursu-
19 ant to paragraph (1)(C) shall be referred to the
20 Committee on Ways and Means or the Committee on
21 Finance, as the case may be. The committee shall
22 report the bill or joint resolution without substantive
23 revision and with or without recommendation. The
24 bill or joint resolution shall be reported not later
25 than the seventh day of continuous session of that

1 House after it receives the bill or joint resolution. A
2 committee failing to report the bill or joint resolu-
3 tion within such period shall be automatically dis-
4 charged from consideration of the bill or joint reso-
5 lution, and the bill or joint resolution shall be placed
6 upon the appropriate calendar.

7 “(B) A vote on final passage of a bill or joint
8 resolution transmitted to that House shall be taken
9 on or before the close of the 10th calendar day of
10 continuous session of that House after the date on
11 which the bill or joint resolution is transmitted. If
12 the bill or joint resolution is agreed to in that
13 House, the Clerk of the House of Representatives
14 (in the case of a bill or joint resolution agreed to in
15 the House of Representatives) or the Secretary of
16 the Senate (in the case of a bill or joint resolution
17 agreed to in the Senate) shall cause the engrossed
18 bill or joint resolution to be returned to the House
19 in which the bill or joint resolution originated.

20 “(3)(A) A motion in the House of Representa-
21 tives to proceed to the consideration of a bill or joint
22 resolution under this section shall be highly privi-
23 leged and not debatable. An amendment to the mo-
24 tion shall not be in order, nor shall it be in order

1 to move to reconsider the vote by which the motion
2 is agreed to or disagreed to.

3 “(B) Debate in the House of Representatives
4 on a bill or joint resolution under this section shall
5 not exceed 4 hours, which shall be divided equally
6 between those favoring and those opposing the bill
7 or joint resolution. A motion further to limit debate
8 shall not be debatable. It shall not be in order to
9 move to recommit a bill or joint resolution under
10 this section or to move to reconsider the vote by
11 which the bill or joint resolution is agreed to or dis-
12 agreed to.

13 “(C) Appeals from decisions of the Chair relat-
14 ing to the application of the Rules of the House of
15 Representatives to the procedure relating to a bill or
16 joint resolution under this section shall be decided
17 without debate.

18 “(D) Except to the extent specifically provided
19 in the preceding provisions of this subsection, con-
20 sideration of a bill or joint resolution under this sec-
21 tion shall be governed by the Rules of the House of
22 Representatives.

23 “(4)(A) A motion in the Senate to proceed to
24 the consideration of a bill or joint resolution under
25 this section shall be privileged and not debatable. An

1 amendment to the motion shall not be in order, nor
2 shall it be in order to move to reconsider the vote
3 by which the motion is agreed to or disagreed to.

4 “(E) Debate in the Senate on a bill or joint res-
5 olution under this section, and all debatable motions
6 and appeals in connection therewith, shall not exceed
7 10 hours. The time shall be equally divided between,
8 and controlled by, the majority leader and the mi-
9 nority leader or their designees.

10 “(C) Debate in the Senate on any debatable
11 motion or appeal in connection with a bill or joint
12 resolution under this section shall be limited to not
13 more than 1 hour, to be equally divided between,
14 and controlled by, the mover and the manager of the
15 bill or joint resolution, except that in the event the
16 manager of the bill or joint resolution is in favor of
17 any such motion or appeal, the time in opposition
18 thereto, shall be controlled by the minority leader or
19 his designee. Such leaders, or either of them, may,
20 from time under their control on the passage of a
21 bill or joint resolution, allot additional time to any
22 Senator during the consideration of any debatable
23 motion or appeal.

24 “(D) A motion in the Senate to further limit
25 debate on a bill or joint resolution under this section

1 is not debatable. A motion to recommit a bill or joint
2 resolution under this section is not in order.

3 “(d) **AMENDMENTS PROHIBITED.**—No amendment
4 to a bill or joint resolution considered under this section
5 shall be in order in either the House of Representatives
6 or the Senate. No motion to suspend the application of
7 this subsection shall be in order in either House, nor shall
8 it be in order in either House to suspend the application
9 of this subsection by unanimous consent.

10 “(e) **DEFINITIONS.**—For purposes of this section,
11 continuity of a session of either House of Congress shall
12 be considered as broken only by an adjournment of that
13 House sine die, and the days on which that House is not
14 in session because of an adjournment of more than 3 days
15 to a date certain shall be excluded in the computation of
16 any period.”.

17 (b) **EXERCISE OF RULEMAKING POWERS.**—Section
18 904 of such Act (2 U.S.C. 621 note) is amended—

19 (1) by striking “and 1017” in subsection (a)
20 and inserting “1013, and 1018”; and

21 (2) by striking “section 1017” in subsection (d)
22 and inserting “sections 1013 and 1018”; and

23 (c) **CONFORMING AMENDMENTS.**—

24 (1) Section 1011 of such Act (2 U.S.C. 682(5))
25 is amended—

9

1 (A) in paragraph (4), by striking "1013"
2 and inserting "1014"; and

3 (B) in paragraph (5)—

4 (i) by striking "1016" and inserting
5 "1017"; and

6 (ii) by striking "1017(b)(1)" and in-
7 serting "1018(b)(1)".

8 (2) Section 1015 of such Act (2 U.S.C. 685)
9 (as redesignated by section 2(a)) is amended—

10 (A) by striking "1012 or 1013" each place
11 it appears and inserting "1012 or 1014";

12 (B) in subsection (b)(1), by striking
13 "1012" and inserting "1013";

14 (C) in subsection (b)(2), by striking
15 "1013" and inserting "1014"; and

16 (D) in subsection (e)(2)(B), by striking
17 "1013" and inserting "1014".

18 (3) Section 1016 of such Act (2 U.S.C. 686)
19 (as redesignated by section 2(a)) is amended by
20 striking "1012 or 1013" each place it appears and
21 inserting "1012, 1013, or 1014".

22 (d) CLERICAL AMENDMENTS.—The table of sections
23 for subpart B of title X of such Act is amended—

10

1 (1) by redesignating the items relating to sec-
2 tions 1013 through 1017 as items relating to sec-
3 tions 1014 through 1018; and

4 (2) by inserting after the item relating to sec-
5 tion 1012 the following new item:

 "Sec. 1013. Expedited consideration of certain proposed revenue amendments."

6 **SEC. 3. TERMINATION.**

7 The authority provided by section 1013 of the Con-
8 gressional Budget and Impoundment Control Act of 1974
9 (as added by section 2) shall terminate effective on the
10 date in 1994 on which Congress adjourns sine die.

April 1, 1993

[From the Congressional Record page H1856]

I

103D CONGRESS
1ST SESSION

H. R. 1597

To amend the Congressional Budget and Impoundment Control Act of 1974 to provide for the expedited consideration of certain proposed rescissions of budget authority.

IN THE HOUSE OF REPRESENTATIVES

Mr. MINGE (for himself, Mr. DEAL, Mr. INSLEE, Mr. GUTIERREZ, Mr. MEEHAN, Mr. KLEIN, Mr. POMEROY, Mr. MANN, Mr. JOHNSON of Georgia, Mr. BARRETT of Wisconsin, Mr. McHALE, Mr. BAESLER, and Mr. FINGERHUT) introduced the following bill; which was referred jointly to the Committees on Government Operations and Rules

A BILL

To amend the Congressional Budget and Impoundment Control Act of 1974 to provide for the expedited consideration of certain proposed rescissions of budget authority.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the "Line Item Veto Act".

1 **SEC. 2. EXPEDITED CONSIDERATION OF CERTAIN PRO-**
2 **POSED RESCISSIONS AND TAX EXPENDI-**
3 **TURES.**

4 (a) **IN GENERAL.**—Part B of title X of the Congres-
5 sional Budget and Impoundment Control Act of 1974 (2
6 U.S.C. 681 et seq.) is amended by redesignating sections
7 1013 through 1017 as sections 1014 through 1018, re-
8 spectively, and inserting after section 1012 the following
9 new section:

10 **“EXPEDITED CONSIDERATION OF CERTAIN PROPOSED**
11 **RESCISSIONS**

12 **“SEC. 1013. (a) PROPOSED RESCISSION OF BUDGET**
13 **AUTHORITY.**—In addition to the method of rescinding
14 budget authority specified in section 1012, the President
15 may propose, at the time and in the manner provided in
16 subsection (b), the rescission of any budget authority pro-
17 vided in an appropriations Act or the repeal of any tax
18 expenditure in any revenue Act. Funds made available for
19 obligation under this procedure may not be proposed for
20 rescission again under this section or section 1012.

21 **“(b) TRANSMITTAL OF SPECIAL MESSAGE.—**

22 **“(1) Not later than seven days after the date**
23 **of enactment of an appropriation Act or revenue**
24 **Act, as the case may be, the President may transmit**
25 **to Congress—**

3

1 “(A) a special message proposing to re-
2 scind amounts of budget authority provided in
3 that appropriation Act and include with that
4 special message a draft bill that, if enacted,
5 would only rescind that budget authority; or

6 “(B) a special message proposing to repeal
7 any tax expenditure provided in any revenue
8 Act, and include with that special message a
9 draft bill that, if enacted, would only repeal
10 that tax expenditure.

11 That bill shall clearly identify the amount of budget
12 authority that is proposed to be rescinded for each
13 program, project, or activity to which that budget
14 authority relates.

15 “(2) In the case of an appropriation Act that
16 includes accounts within the jurisdiction of more
17 than one subcommittee of the Committee on Appro-
18 priations, the President in proposing to rescind
19 budget authority under this section shall send a sep-
20 arate special message and accompanying draft bill
21 for accounts within the jurisdiction of each such sub-
22 committee.

23 “(3) Each special message shall specify, with
24 respect to the budget authority proposed to be re-

1 scinded, the matters referred to in paragraphs (1)
2 through (5) of section 1012(a).

3 “(c) PROCEDURES FOR EXPEDITED CONSIDER-
4 ATION.—

5 “(1)(A) Before the close of the second legisla-
6 tive day of the House of Representatives after the
7 date of receipt of a special message transmitted to
8 Congress under subsection (b), the majority leader
9 or minority leader of the House of Representatives
10 shall introduce (by request) the draft bill accom-
11 panying that special message. If the bill is not intro-
12 duced as provided in the preceding sentence, then,
13 on the third legislative day of the House of Rep-
14 resentatives after the date of receipt of that special
15 message, any Member of that House may introduce
16 the bill.

17 “(B) The bill shall be referred to the Commit-
18 tee on Appropriations or the Committee on Ways
19 and Means of the House of Representatives, as ap-
20 propriate. The committee shall report the bill with-
21 out substantive revision and with or without rec-
22 ommendation. The bill shall be reported not later
23 than the seventh legislative day of that House after
24 the date of receipt of that special message. If the
25 committee fails to report the bill within that period,

1 that committee shall be automatically discharged
2 from consideration of the bill, and the bill shall be
3 placed on the appropriate calendar.

4 “(C) A vote on final passage of the bill shall be
5 taken in the House of Representatives on or before
6 the close of the tenth legislative day of that House
7 after the date of the introduction of the bill in that
8 House. If the bill is passed, the Clerk of the House
9 of Representatives shall cause the bill to be en-
10 grossed, certified, and transmitted to the Senate
11 within one calendar day of the day on which the bill
12 is passed.

13 “(2)(A) A motion in the House of Representa-
14 tives to proceed to the consideration of a bill under
15 this section shall be highly privileged and not debat-
16 able. An amendment to the motion shall not be in
17 order, nor shall it be in order to move to reconsider
18 the vote by which the motion is agreed to or dis-
19 agreed to.

20 “(B) Debate in the House of Representatives
21 on a bill under this section shall not exceed four
22 hours, which shall be divided equally between those
23 favoring and those opposing the bill. A motion fur-
24 ther to limit debate shall not be debatable. It shall
25 not be in order to move to recommit a bill under this

1 section or to move to reconsider the vote by which
2 the bill is agreed to or disagreed to.

3 “(C) Appeals from decisions of the Chair relat-
4 ing to the application of the Rules of the House of
5 Representatives to the procedure relating to a bill
6 under this section shall be decided without debate.

7 “(D) Except to the extent specifically provided
8 in the preceding provisions of this subsection consid-
9 eration of a bill under this section shall be governed
10 by the Rules of the House of Representatives.

11 “(3)(A) A bill transmitted to the Senate pursu-
12 ant to paragraph (1)(D) shall be referred to its
13 Committee on Appropriations or Committee on Fi-
14 nance, as appropriate. The committee shall report the
15 bill without substantive revision and with or without
16 recommendation. The bill shall be reported not later
17 than the seventh legislative day of the Senate after
18 it receives the bill. A committee failing to report the
19 bill within such period shall be automatically dis-
20 charged from consideration of the bill, and the bill
21 shall be placed upon the appropriate calendar.

22 “(B) A vote on final passage of a bill transmit-
23 ted to the Senate shall be taken on or before the
24 close of the tenth legislative day of the Senate after
25 the date on which the bill is transmitted. If the bill

1 is passed in the Senate without amendment, the Sec-
2 retary of the Senate shall cause the engrossed bill to
3 be returned to the House of Representatives.

4 “(4)(A) A motion in the Senate to proceed to
5 the consideration of a bill under this section shall be
6 privileged and not debatable. An amendment to the
7 motion shall not be in order, nor shall it be in order
8 to move to reconsider the vote by which the motion
9 is agreed to or disagreed to.

10 “(B) Debate in the Senate on a bill under this
11 section, and all debatable motions and appeals in
12 connection therewith, shall not exceed ten hours.
13 The time shall be equally divided between, and con-
14 trolled by, the majority leader and the minority lead-
15 er or their designees.

16 “(C) Debate in the Senate on any debatable
17 motion or appeal in connection with a bill under this
18 section shall be limited to not more than one hour,
19 to be equally divided between, and controlled by, the
20 mover and the manager of the bill, except that in
21 the event the manager of the bill is in favor of any
22 such motion or appeal, the time in opposition there-
23 to, shall be controlled by the minority leader or his
24 designee. Such leaders, or either of them, may, from
25 time under their control on the passage of a bill,

1 allot additional time to any Senator during the con-
2 sideration of any debatable motion or appeal.

3 “(D) A motion in the Senate to further limit
4 debate on a bill under this section is not debatable.
5 A motion to recommit a bill under this section is not
6 in order.

7 “(d) AMENDMENTS AND DIVISIONS PROHIBITED.—
8 No amendment to a bill considered under this section shall
9 be in order in either the House of Representatives or the
10 Senate. It shall not be in order to demand a division of
11 the question in the House of Representatives (or in a Com-
12 mittee of the Whole) or in the Senate. No motion to sus-
13 pend the application of this subsection shall be in order
14 in either House, nor shall it be in order in either House
15 to suspend the application of this subsection by unanimous
16 consent.

17 “(e) REQUIREMENT TO MAKE AVAILABLE FOR OBLI-
18 GATION.—Any amount of budget authority proposed to be
19 rescinded in a special message transmitted to Congress
20 under subsection (b) shall be made available for obligation
21 on the day after the date on which either House rejects
22 the bill transmitted with that special message.

23 “(f) DEFINITIONS.—For purposes of this section—
24 “(1) the term ‘appropriation Act’ means any
25 general or special appropriation Act, and any Act or

1 joint resolution making supplemental, deficiency, or
2 continuing appropriations; and

3 “(2) the term ‘legislative day’ means, with re-
4 spect to either House of Congress, any day during
5 which that House is in session.”.

6 (b) EXERCISE OF RULEMAKING POWERS.—Section
7 904 of such Act (2 U.S.C. 621 note) is amended—

8 (1) by striking “and 1017” in subsection (a)
9 and inserting “1013, and 1018”; and

10 (2) by striking “section 1017” in subsection (d)
11 and inserting “sections 1013 and 1018”.

12 (c) CONFORMING AMENDMENTS.—

13 (1) Section 1011 of such Act (2 U.S.C. 682(5))
14 is amended—

15 (A) in paragraph (4), by striking “1013”
16 and inserting “1014”; and

17 (B) in paragraph (5)—

18 (i) by striking “1016” and inserting
19 “1017”; and

20 (ii) by striking “1017(b)(1)” and in-
21 serting “1018(b)(1)”.

22 (2) Section 1015 of such Act (2 U.S.C. 685)
23 (as redesignated by section 2(a)) is amended—

10

1 (A) by striking "1012 or 1013" each place
2 it appears and inserting "1012, 1013, or
3 1014";

4 (B) in subsection (b)(1), by striking
5 "1012" and inserting "1012 or 1013";

6 (C) in subsection (b)(2), by striking
7 "1013" and inserting "1014"; and

8 (D) in subsection (e)(2)—

9 (i) by striking "and" at the end of
10 subparagraph (A);

11 (ii) by redesignating subparagraph
12 (B) as subparagraph (C);

13 (iii) by striking "1013" in subpara-
14 graph (C) (as so redesignated) and insert-
15 ing "1014"; and

16 (iv) by inserting after subparagraph
17 (A) the following new subparagraph:

18 "(B) he has transmitted a special message
19 under section 1013 with respect to a proposed
20 rescission; and".

21 (3) Section 1016 of such Act (2 U.S.C. 686)
22 (as redesignated by section 2(a)) is amended by
23 striking "1012 or 1013" each place it appears and
24 inserting "1012, 1013, or 1014".

1 (d) CLERICAL AMENDMENTS.—The table of sections
2 for subpart B of title X of such Act is amended—

3 (1) by redesignating the items relating to sec-
4 tions 1013 through 1017 as items relating to sec-
5 tions 1014 through 1018; and

6 (2) by inserting after the item relating to sec-
7 tion 1012 the following new item:

“Sec. 1013. Expedited consideration of certain proposed rescissions.”.

103D CONGRESS
1ST SESSION

H. R. 1636

To provide for line item veto; capital gains tax reduction; enterprise zones; raising the social security earnings limit workfare.

IN THE HOUSE OF REPRESENTATIVES

APRIL 1, 1993

Mr. STEARNS introduced the following bill; which was referred jointly to the Committees on Government Operations, Rules, and Ways and Means

A BILL

To provide for line item veto; capital gains tax reduction; enterprise zones; raising the social security earnings limit workfare.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **TITLE I—LINE-ITEM VETO**

4 **SEC. 101. ENHANCEMENT OF SPENDING CONTROL BY THE**
5 **PRESIDENT.**

6 The Impoundment Control Act of 1974 is amended
7 by adding at the end thereof the following new title:

1 "TITLE XI—LEGISLATIVE LINE ITEM VETO
2 RESCISSION AUTHORITY

3 "PART A—LEGISLATIVE LINE ITEM VETO RESCISSION
4 AUTHORITY

5 "GRANT OF AUTHORITY AND CONDITIONS

6 "SEC. 1101. (a) IN GENERAL.—(1) Notwithstanding
7 part B of title X and subject to part B of this title, the
8 President may rescind all or part of any budget authority,
9 if the President—

10 "(A) determines that—

11 "(i) such rescission would help balance the
12 Federal budget, reduce the Federal budget defi-
13 cit, or reduce the public debt;

14 "(ii) such rescission will not impair any es-
15 sential Government functions; and

16 "(iii) such rescission will not harm the na-
17 tional interest; and

18 "(B)(i) notifies the Congress of such rescission
19 by a special message not later than 20 calendar days
20 (not including Saturdays, Sundays, or holidays)
21 after the date of enactment of a regular or supple-
22 mental appropriations Act or a joint resolution mak-
23 ing continuing appropriations providing such budget
24 authority; or

1 “(ii) notifies the Congress of such rescission by
2 special message accompanying the submission of the
3 President’s budget to Congress and such rescissions
4 have not been proposed previously for that fiscal
5 year.

6 “(2) The President shall submit a separate rescission
7 message for each appropriations bill under paragraph
8 (1)(B)(ii).

9 “(b) RESCISSION EFFECTIVE UNLESS DIS-
10 APPROVED.—(1)(A) Any amount of budget authority re-
11 scinded under this title as set forth in a special message
12 by the President shall be deemed canceled unless, during
13 the period described in subparagraph (B), a rescission dis-
14 approval bill making available all of the amount rescinded
15 is enacted into law.

16 “(B) The period referred to in subparagraph (A) is—

17 “(i) a Congressional review period of 20 cal-
18 endar days of session under part B, during which
19 Congress must complete action on the rescission dis-
20 approval bill and present such bill to the President
21 for approval or disapproval;

22 “(ii) after the period provided in clause (i), an
23 additional 10 days (not including Sundays) during
24 which the President may exercise his authority to
25 sign or veto the rescission disapproval bill; and

1 “(iii) if the President vetoes the rescission dis-
2 approval bill during the period described in clause
3 (ii), an additional 5 calendar days of session after
4 the date of the veto.

5 “(2) If a special message is transmitted by the Presi-
6 dent under this section during any Congress and the last
7 session of such Congress adjourns sine die before the expi-
8 ration of the period described in paragraph (1)(B)—

9 “(A) the rescission shall not take effect;

10 “(B) the message shall be deemed to have been
11 retransmitted on the first day of the succeeding
12 Congress; and

13 “(C) the review period described in paragraph
14 (1)(B) (with respect to such message) shall run be-
15 ginning after such first day.

16 “DEFINITIONS

17 “SEC. 1102. For the purposes of this title, the term
18 ‘rescission disapproval bill’ means a bill or joint resolution
19 which only disapproves a rescission of budget authority,
20 in whole, rescinded in a special message transmitted by
21 the President under section 1101.

22 “PART B—CONGRESSIONAL CONSIDERATION OF
23 LEGISLATIVE LINE ITEM VETO RESCISSIONS

24 “PRESIDENTIAL SPECIAL MESSAGE

25 “SEC. 1111. When the President rescinds any budget
26 authority as provided in section 1101, the President shall

1 transmit to the House of Representatives and to the Sen-
 2 ate a special message specifying—

3 “(1) the amount of budget authority rescinded;

4 “(2) any account, department, or establishment
 5 of the Government to which such budget authority
 6 is available for obligation, and the specific project or
 7 governmental functions involved;

8 “(3) the reasons and justifications for the de-
 9 termination to rescind budget authority pursuant to
 10 section 1101(a)(1);

11 “(4) to the maximum extent practicable, the es-
 12 timated fiscal, economic, and budgetary effect of the
 13 rescission; and

14 “(5) all facts, circumstances, and considerations
 15 relating to or bearing upon the rescission and the
 16 decision to effect the rescission, and to the maxi-
 17 mum extent practicable, the estimated effect of the
 18 rescission upon the objects, purposes, and programs
 19 for which the budget authority is provided.

20 “TRANSMISSION OF MESSAGES; PUBLICATION

21 “SEC. 1112. (a) DELIVERY TO HOUSE AND SEN-
 22 ATE.—(1) Each special message transmitted under sec-
 23 tions 1101 and 1111 shall be transmitted to the House
 24 of Representatives and the Senate on the same day, and
 25 shall be delivered to the Clerk of the House of Representa-
 26 tives if the House of Representatives is not in session and

1 to the Secretary of the Senate if the Senate is not in ses-
2 sion.

3 “(2) Each special message transmitted pursuant to
4 paragraph (1) shall be referred to the appropriate commit-
5 tees of the House of Representatives and the Senate and
6 shall be printed as a document of each House.

7 “(b) PRINTING IN FEDERAL REGISTER.—A special
8 message transmitted under sections 1101 and 1111 shall
9 be printed in the first issue of the Federal Register pub-
10 lished after such transmittal.

11 “PROCEDURE IN THE HOUSE OF REPRESENTATIVES

12 “SEC. 1113. (a) REFERRAL.—(1) Any rescission dis-
13 approval bill introduced with respect to a special message
14 shall be referred to the appropriate committees of the
15 House of Representatives or the Senate, as the case may
16 be.

17 “(2) Any rescission disapproval bill received in the
18 House of Representatives from the Senate shall be consid-
19 ered in the House of Representatives pursuant to this sec-
20 tion.

21 “(b) FLOOR CONSIDERATION IN THE HOUSE.—

22 “(1) Debate in the House on any rescission dis-
23 approval bill and debatable motions and appeals in
24 connection therewith shall be limited to not more
25 than 10 hours, with the time equally divided be-

1 tween, and controlled by, the majority leader and the
2 minority leader or their designees.

3 “(2)(A) Debate in the House on any debatable
4 motion or appeal in connection with such a bill shall
5 be limited to 1 hour equally divided between, and
6 controlled by, the mover and the manager of the bill,
7 except that if the manager of the bill is in favor of
8 any such motion or appeal, the time in opposition
9 thereto shall be controlled by the minority leader or
10 the minority leader’s designee.

11 “(B) Such leaders, or either of them, may, from
12 the time under their control on the passage of the
13 bill, allot additional time to any Representative dur-
14 ing the consideration of any debatable motion or ap-
15 peal.

16 “(3) A motion to further limit debate shall not
17 be debatable, and a motion to recommit (except a
18 motion to recommit with instructions to report back
19 within a specified number of days, not to exceed 1,
20 not counting any day on which the Senate is not in
21 session) shall not be in order.

22 “(c) POINT OF ORDER -- (1) It shall not be in order
23 in the Senate or the House of Representatives to consider
24 any rescission or disapproval bill that relates to any matter

1 other than the rescission of budget authority transmitted
2 by the President under section 1101.

3 “(2) It shall not be in order in the Senate or the
4 House of Representatives to consider any amendment to
5 a rescission disapproval bill.

6 “(3) Paragraphs (1) and (2) may be waived or sus-
7 pended in the House only by a vote of three-fifths of the
8 members duly chosen and sworn.”.

9 **TITLE II—CAPITAL GAINS**

10 **SEC. 201. DEDUCTION FOR CAPITAL GAINS ON CERTAIN** 11 **SMALL BUSINESS STOCK.**

12 (a) IN GENERAL.—Subchapter P of chapter 1 of the
13 Internal Revenue Code of 1986 (relating to capital gains
14 and losses) is amended by adding at the end thereof the
15 following new part:

16 **“PART VII—ENTERPRISE CAPITAL INVESTMENT** 17 **INCENTIVES**

“Sec. 1301. Deduction for gain on certain small business stock.

“Sec. 1302. Definitions and special rules.

18 **“SEC. 1301. DEDUCTION FOR GAIN ON CERTAIN SMALL** 19 **BUSINESS STOCK.**

20 “(a) GENERAL RULE.—If a taxpayer has a qualified
21 small business net capital gain for any taxable year, there
22 shall be allowed as a deduction from gross income an
23 amount equal to the sum of—

24 “(1) 50 percent of the excess (if any) of—

1 “(A) qualified small business net capital
2 gain, over

3 “(B) the amount of seed capital gain, plus
4 “(2) the seed capital gain deduction.

5 “(b) QUALIFIED SMALL BUSINESS NET CAPITAL
6 GAIN.—For purposes of this section, the term ‘qualified
7 small business net capital gain’ means the lesser of—

8 “(1) the net capital gain for the taxable year,
9 or

10 “(2) the net capital gain for the taxable year
11 determined by taking into account only gain or loss
12 from sales or exchanges of qualified small business
13 stock with a holding period of more than 5 years at
14 the time of sale or exchange.

15 “(c) SEED CAPITAL GAIN DEDUCTION.—For pur-
16 poses of this section—

17 “(1) IN GENERAL.—The term ‘seed capital gain
18 deduction’ means an amount equal to the sum of the
19 amounts determined by applying the applicable per-
20 centages to the appropriate categories of seed capital
21 gain under the table contained in paragraph (2).

22 “(2) COMPUTATION OF AMOUNT.—The seed
23 capital gain deduction shall be computed as follows:

In the case of:	The applicable percentage is:
5-year gain	50
6-year gain	60
7-year gain	70

"In the case of:	The applicable percentage is:
8-year gain	80
9-year gain	90
10-year gain	100.

“(3) SEED CAPITAL GAIN.—For purposes of this subsection, the term ‘seed capital gain’ means the lesser of—

“(A) the excess (if any) of—

“(i) the net capital gain for the taxable year, over

“(ii) the qualified small business net capital gain for the taxable year determined without regard to gain or loss described in subparagraph (B), or

“(B) the net capital gain for the taxable year determined by taking into account only gain or loss from sales or exchanges of stock—

“(i) which is qualified small business stock in a corporation which is a qualified small business (determined by substituting ‘\$5,000,000’ for ‘\$100,000,000’ in section 1302(b)(1)), and

“(ii) with a holding period of more than 5 years at the time of the sale or exchange.

“(4) CATEGORIES OF GAIN.—For purposes of this subsection—

11

1 “(A) 10-YEAR GAIN.—The term ‘10-year
2 gain’ means the lesser of—

3 “(i) the seed capital gain, or

4 “(ii) the seed capital gain determined
5 by taking into account under paragraph
6 (3)(B) only gain or loss from qualified
7 small business stock with a holding period
8 of more than 10 years at the time of the
9 sale or exchange.

10 “(B) OTHER GAIN.—The terms ‘5-, 6-,
11 7-, 8-, and 9-year gain’ mean, with respect to
12 any category, the lesser of—

13 “(i) the excess (if any) of—

14 “(I) seed capital gain, over

15 “(II) the amount determined
16 under this paragraph for categories
17 with a longer holding period, or

18 “(ii) seed capital gain determined by
19 taking into account under paragraph
20 (3)(B) only gain or loss from qualified
21 small business stock with a holding period
22 of more than 5, 6, 7, 8, or 9 years but not
23 more than 6, 7, 8, 9, or 10 years, respec-
24 tively.

1 “(d) ESTATES AND TRUSTS.—In the case of an es-
2 tate or trust, the deduction under subsection (a) shall be
3 computed by excluding the portion (if any) of the gains
4 for the taxable year from sales or exchanges of qualified
5 small business stock which, under section 652 and 662
6 (relating to inclusions of amounts in gross income of bene-
7 ficiaries of trusts), is includible by the income beneficiaries
8 as gains derived from the sale or exchange of capital as-
9 sets.

10 **“SEC. 1302. DEFINITIONS AND SPECIAL RULES.**

11 “(a) QUALIFIED SMALL BUSINESS STOCK.—For pur-
12 poses of this part—

13 “(1) IN GENERAL.—The term ‘qualified small
14 business stock’ means any stock in a corporation
15 which is originally issued after December 31, 1991,
16 if—

17 “(A) as of the date of issuance, such cor-
18 poration is a qualified small business, and

19 “(B) except as provided in subsections (d)
20 and (e), such stock is acquired by the taxpayer
21 at its original issue (directly or through an un-
22 derwriter)—

23 “(i) in exchange for money or other
24 property (not including stock), or

13

1 “(ii) as compensation for services
2 (other than services performed as an un-
3 derwriter of such stock).

4 “(2) 5-YEAR ACTIVE BUSINESS REQUIRE-
5 MENT.—Stock in a corporation shall not be treated
6 as qualified small business stock unless, during the
7 testing period, such corporation meets the active
8 business requirements of subsection (c).

9 “(3) CERTAIN REDEMPTIONS, EXCHANGES,
10 ETC. DISQUALIFIED.—For purposes of paragraph
11 (1)(B), and except as provided in subsections (d)
12 and (e), stock shall not be treated as acquired by the
13 taxpayer at its original issue if—

14 “(i) it is issued directly or indirectly in re-
15 demption of, or otherwise in exchange for, stock
16 which is not qualified small business stock, or

17 “(ii) it is issued in an exchange described
18 in section 351 in exchange for property other
19 than qualified small business stock, if imme-
20 diately after the exchange, both the issuer and
21 transferee of the stock are members of the
22 same controlled group of corporations (as de-
23 fined in section 1563).

24 “(b) QUALIFIED SMALL BUSINESS.—For purposes of
25 this part—

1 “(1) IN GENERAL.—The term ‘qualified small
2 business’ means any domestic corporation with re-
3 spect to which the sum of—

4 “(A) the aggregate amount of money,
5 other property, and services received by the cor-
6 poration for stock, as a contribution to capital,
7 and as paid-in surplus, plus

8 “(B) the accumulated earnings and profits
9 of the corporation,
10 does not exceed \$100,000,000. The determination
11 under the preceding sentence shall be made as of the
12 time of such issuance but shall include amounts re-
13 ceived in such issuance and all prior issuances.

14 “(2) AMOUNT TAKEN INTO ACCOUNT WITH RE-
15 SPECT TO PROPERTY AND SERVICES.—For purposes
16 of paragraph (1)—

17 “(A) PROPERTY.—The amount taken into
18 account with respect to any property other than
19 money shall be an amount equal to the adjusted
20 basis of such property for determining gain, re-
21 duced (but not below zero) by any liability to
22 which the property was subject or which was
23 assumed by the corporation. The determination
24 under the preceding sentence shall be made as

1 of the time the property was received by the
2 corporation.

3 “(B) COMPENSATION FOR SERVICES.—The
4 amount taken into account with respect to stock
5 issued for services shall be the value of such
6 services.

7 “(c) ACTIVE BUSINESS REQUIREMENT.—For pur-
8 poses of this part—

9 “(1) IN GENERAL.—For purposes of subsection
10 (a)(2), the requirements of this subsection are met
11 if, during the testing period—

12 “(A) the corporation is engaged in the ac-
13 tive conduct of a trade or business, and

14 “(B) substantially all of the assets of such
15 corporation are used in the active conduct of a
16 trade or business.

17 “(2) SPECIAL RULE FOR CERTAIN ACTIVI-
18 TIES.—For purposes of paragraph (1), if, in connec-
19 tion with any future trade or business, a corporation
20 is engaged in—

21 “(A) start-up activities described in section
22 195(c)(1)(A),

23 “(B) activities resulting in the payment or
24 incurring of expenditures which may be treated

1 as research and experimental expenditures
2 under section 174, or

3 “(C) activities with respect to in-house re-
4 search expenses described in section 41(b)(4),
5 such corporation shall be treated with respect to
6 such activities as engaged in (and assets used in
7 such activities shall be treated as used in) the active
8 conduct of a trade or business. Any determination
9 under this paragraph shall be made without regard
10 to whether a corporation has any gross income from
11 such activities at the time of the determination.

12 “(3) STOCK IN OTHER CORPORATIONS.—

13 “(A) LOOK-THRU IN CASE OF SUBSIDI-
14 ARIES.—For purposes of this subsection, stock
15 and debt in any subsidiary corporation shall be
16 disregarded and the parent corporation shall be
17 deemed to own its ratable share of the subsidi-
18 ary’s assets, and to conduct its ratable share of
19 the subsidiary’s activities.

20 “(B) PORTFOLIO STOCK.—A corporation
21 shall be treated as failing to meet the require-
22 ments of paragraph (1) if, at any time during
23 the testing period, more than 10 percent of the
24 value of its assets (in excess of liabilities) con-

1 sist of stock in other corporations which are not
2 subsidiaries of such corporation.

3 “(C) SUBSIDIARY.—For purposes of this
4 paragraph, a corporation shall be considered a
5 subsidiary if the parent owns at least 50 per-
6 cent of the combined voting power of all classes
7 of stock entitled to vote, or at least 50 percent
8 in value of all outstanding stock of such cor-
9 poration.

10 “(4) WORKING CAPITAL.—For purposes of
11 paragraph (1)(B), any assets which—

12 “(A) are held for investment, and

13 “(B) are to be used to finance future re-
14 search and experimentation or working capital
15 needs of the corporation,

16 shall be treated as used in the active conduct of a
17 trade or business.

18 “(5) MAXIMUM REAL ESTATE HOLDINGS.—A
19 corporation shall not be treated as meeting the re-
20 quirements of paragraph (1) if, at any time during
21 the testing period, more than 10 percent of the total
22 value of its assets is real property which is not used
23 in the active conduct of a trade or business. For
24 purposes of the preceding sentence, the ownership
25 of, dealing in, or renting of real property shall not

1 be treated as the active conduct of a trade or busi-
2 ness.

3 “(6) SMALL BUSINESS INVESTMENT COMPA-
4 NIES.—Paragraph (1) shall not apply to any small
5 business investment company operating under the
6 Small Business Investment Act of 1958.

7 “(7) COMPUTER SOFTWARE ROYALTIES.—For
8 purposes of paragraph (1), rights to computer soft-
9 ware which produces income described in section
10 543(d) shall be treated as an asset used in the active
11 conduct of a trade or business.

12 “(8) TESTING PERIOD.—For purposes of this
13 section, the term ‘testing period’ means, with respect
14 to any stock held by a taxpayer, the 5-year period
15 beginning with the first day of the taxpayer’s hold-
16 ing period for such stock.

17 “(d) SPECIAL RULES FOR OPTIONS, WARRANTS, AND
18 CERTAIN CONVERTIBLE INVESTMENTS.— For purposes
19 of this part—

20 “(1) IN GENERAL.—In the case of stock which
21 is acquired by the taxpayer through the exercise of
22 an applicable option or warrant, through the conver-
23 sion of convertible debt, or in exchange for securities
24 of the corporation in a transaction described in sec-
25 tion 368—

1 “(A) such stock shall be treated as ac-
2 quired by the taxpayer at original issue, and

3 “(B) such stock shall be treated as having
4 been held during the period such option, war-
5 rant, or debt was held, or such security was
6 outstanding.

7 “(2) ISSUE PRICE FOR CONVERTIBLE DEBT OR
8 SECURITY.—For purposes of section 1302(b)(1) and
9 notwithstanding section 1302(b)(2), in the case of a
10 debt instrument converted to stock, or stock issued
11 in exchange for securities in a transaction described
12 in section 368, such stock shall be treated as issued
13 for an amount equal to the sum of—

14 “(A) the principal amount of the debt or
15 security as of the time of the conversion or ex-
16 change, and

17 “(B) accrued but unpaid interest on such
18 loan or security.

19 “(3) APPLICABLE OPTION OR WARRANT.—For
20 purposes of this subsection, the term ‘applicable op-
21 tion or warrant’ means an option or warrant
22 which—

23 “(A) was issued in exchange for the per-
24 formance of services for the corporation issuing
25 it, and

1 “(B) is nontransferrable.

2 “(e) CERTAIN TAX-FREE AND OTHER TRANS-
3 FERS.—For purposes of this part—

4 “(1) IN GENERAL.—In the case of a transfer of
5 stock to which this subsection applies, the transferee
6 shall be treated as—

7 “(A) having acquired such stock in the
8 same manner as the transferor, and

9 “(B) having held such stock during any
10 continuous period immediately preceding the
11 transfer during which it was held (or treated as
12 held under this subsection) by the transferor.

13 “(2) TRANSFERS TO WHICH SUBSECTION AP-
14 PLIES.—This subsection shall apply to any
15 transfer—

16 “(A) by gift,

17 “(B) at death,

18 “(C) to the extent that the basis of the
19 property in the hands of the transferee is deter-
20 mined by reference to the basis of the property
21 in the hands of the transferor by reason of sec-
22 tion 334(b), 723, or 732, or

23 “(D) of qualified small business stock for
24 other qualified small business stock in a trans-

21

1 action described in section 351 or a reorganiza-
2 tion described in section 368.

3 “(3) INCORPORATIONS AND REORGANIZATIONS
4 INVOLVING NONQUALIFIED STOCK.—

5 “(A) IN GENERAL.—In the case of a trans-
6 action described in section 351 or a reorganiza-
7 tion described in section 368, if a qualified
8 small business stock is transferred for other
9 stock which is not qualified small business
10 stock, such transfer shall be treated as a trans-
11 fer to which this subsection applies solely with
12 respect to the person receiving such other stock.

13 “(B) LIMITATION.—This part shall apply
14 to the sale or exchange of stock treated as
15 qualified small business stock by reason of sub-
16 paragraph (A) only to the extent of the gain (if
17 any) which would have been recognized at the
18 time of the transfer described in subparagraph
19 (A) if section 351 or 368 had not applied at
20 such time.

21 “(C) SUCCESSIVE APPLICATION.—For pur-
22 poses of this paragraph, stock treated as quali-
23 fied small business stock under subparagraph
24 (A) shall be so treated for subsequent trans-
25 actions or reorganizations, except that the limi-

1 tation of subparagraph (B) shall be applied as
2 of the time of the first transfer to which sub-
3 paragraph (A) applied.

4 “(D) CONTROL TEST.—Except in the case
5 of a transaction described in section 368, this
6 paragraph shall apply only if, immediately after
7 the transaction, the corporation issuing the
8 stock owns directly or indirectly stock rep-
9 resenting control (within the meaning of section
10 368(c)) of the corporation whose stock was
11 transferred.

12 “(f) STOCK EXCHANGED FOR PROPERTY.—For pur-
13 poses of this part, in the case where the taxpayer transfers
14 property (other than money or stock) to a corporation in
15 exchange for stock in such corporation—

16 “(1) such stock shall be treated as having been
17 acquired by the taxpayer on the date of such ex-
18 change, and

19 “(2) the basis of such stock in the hands of the
20 taxpayer shall be treated as equal to the fair market
21 value of the property exchanged.

22 “(g) PASS-THRU ENTITIES.—For purposes of this
23 part, any gain or loss of a pass-thru entity which is treated
24 for purposes of this subtitle as a gain or loss of any person
25 holding an interest in such entity shall retain its character

1 as qualified small business or seed capital gain or loss in
2 the hands of such person.

3 “(h) INDEXING.—In the case of any stock issued in
4 a calendar year after 1992, the \$5,000,000 and
5 \$100,000,000 amounts in section 1301(c)(3)(B)(i) and
6 subsection (b)(1) of this section shall be increased by an
7 amount equal to—

8 “(1) such dollar amount, multiplied by

9 “(2) the cost-of-living adjustment determined
10 under section 1(f)(3) for such calendar year by sub-
11 stituting ‘1991’ for ‘1987’ in subparagraph (B)
12 thereof.”.

13 (b) MAXIMUM 14 PERCENT TAX RATE.—

14 (1) INDIVIDUALS.—Section 1(h) of such Code
15 (relating to maximum capital gains rate) is amended
16 to read as follows:

17 “(h) MAXIMUM CAPITAL GAINS RATE.—

18 “(1) IN GENERAL.—If a taxpayer has a net
19 capital gain for any taxable year, then the tax im-
20 posed by this section shall not exceed the sum of—

21 “(A) a tax computed at the rate and in the
22 same manner as if this subsection had not been
23 enacted on the greater of—

24 “(i) taxable income reduced by the
25 amount of the net capital gain, or

1 “(ii) the amount of taxable income
2 taxed at a rate below 28 percent, plus

3 “(B) a tax of 28 percent of the amount of
4 taxable income in excess of the amount deter-
5 mined under subparagraph (A).

6 “(2) SPECIAL RULE WHERE TAXPAYER HAS
7 QUALIFIED SMALL BUSINESS NET CAPITAL OR SEED
8 CAPITAL GAIN.—

9 “(A) IN GENERAL.—If a taxpayer has
10 qualified small business net capital gain or seed
11 capital gain for any taxable year, then the tax
12 imposed by this section shall not exceed the
13 lesser of—

14 “(i) the amount determined under
15 paragraph (1), or

16 “(ii) the sum of—

17 “(I) the amount determined
18 under paragraph (1) without taking
19 into account qualified small business
20 net capital gain and seed capital gain
21 for purposes of subparagraphs (A)
22 and (B) thereof, plus

23 “(II) 14 percent of the qualified
24 small business net capital gain and
25 seed capital gain.

1 “(B) DEFINITIONS.—For purposes of this
2 paragraph, the terms ‘qualified small business
3 net capital gain’ and ‘seed capital gain’ have
4 the meanings given such terms by section 1301
5 (b) and (c), respectively.”.

6 (2) CORPORATIONS.—Section 1201(a) of such
7 Code (relating to alternative tax for corporations) is
8 amended—

9 (A) by inserting “or the corporation has a
10 qualified small business net capital gain or seed
11 capital gain” before “, then”, and

12 (B) by striking paragraph (2) and insert-
13 ing:

14 “(2) a tax equal to the sum of—

15 “(A) 34 percent of the sum of the net cap-
16 ital gain, reduced by qualified small business
17 net capital gain and seed capital gain, plus

18 “(B) 17 percent of the qualified small
19 business net capital gain and seed capital
20 gain.”.

21 (c) TREATMENT AS PREFERENCE ITEM FOR MINI-
22 MUM TAX.—Section 57(a) of such Code (relating to items
23 of tax preference under the alternative minimum tax) is
24 amended by adding at the end thereof the following new
25 paragraph:

1 “(8) CAPITAL GAINS ON SALE OF CERTAIN
2 SMALL BUSINESS STOCK.—An amount equal to the
3 deduction for the taxable year determined under sec-
4 tion 1301(a)(1).”.

5 (d) LOSSES ON SMALL BUSINESS STOCK.—Section
6 1244(c)(3)(A) of such Code (defining small business cor-
7 poration) is amended by striking “\$1,000,000” and insert-
8 ing “\$5,000,000 (adjusted at the same time and manner
9 as under section 1302(g))”.

10 (e) CONFORMING AMENDMENTS.—

11 (1) Section 62(a) of such Code is amended by
12 adding after paragraph (13) the following new para-
13 graph:

14 “(14) LONG-TERM CAPITAL GAINS.—The de-
15 duction allowed by section 1301.”.

16 (2) Subparagraph (B) of section 170(e)(1) of
17 such Code is amended by inserting “(or, in the case
18 of qualified small business stock under section 1301,
19 50 percent of the amount)” after “the amount”.

20 (3) Section 172(d)(2) of such Code is amended
21 to read as follows:

22 “(2) CAPITAL GAINS AND LOSSES OF TAX-
23 PAYERS OTHER THAN CORPORATIONS.—In the case
24 of a taxpayer other than a corporation—

1 “(A) the amount deductible on account of
2 losses from sales or exchanges of capital assets
3 shall not exceed the amount includible on ac-
4 count of gains from sales or exchanges of cap-
5 ital assets; and

6 “(B) the deduction for long-term capital
7 gains provided by section 1301 shall not be al-
8 lowed.”.

9 (4) Subparagraph (B) of section 172(d)(4) of
10 such Code is amended by inserting “, (2)(B),” after
11 “paragraph (1)”.

12 (5)(A) Section 220 of such Code is amended to
13 read as follows:

14 **“SEC. 220. CROSS REFERENCES.**

15 “(1) For deduction for long-term capital gains
16 in the case of sale of qualified small business stock,
17 see section 1301.

18 “(2) For deductions in respect of a decedent,
19 see section 691.”.

20 (B) The table of sections for part VII of sub-
21 chapter B of chapter 1 of such Code is amended by
22 striking out “reference” in the item relating to sec-
23 tion 220 and inserting “references”.

24 (6) Paragraph (4) of section 642(c) of such
25 Code is amended to read as follows:

1 “(4) ADJUSTMENTS.—To the extent that the
2 amount otherwise allowable as a deduction under
3 this subsection consists of gain from the sale or ex-
4 change of qualified small business stock held for
5 more than 5 years, proper adjustment shall be made
6 for any deduction allowable to the estate or trust
7 under section 1301 (relating to deduction for excess
8 of capital gains over capital losses). In the case of
9 a trust, the deduction allowed by this subsection
10 shall be subject to section 681 (relating to unrelated
11 business income).”.

12 (7) Paragraph (3) of section 643(a) of such
13 Code is amended by adding at the end thereof the
14 following new sentence: “The deduction under sec-
15 tion 1301 (relating to deduction for gain on quali-
16 fied small business stock) shall not be taken into ac-
17 count.”.

18 (8) Paragraph (4) of section 691(c) of such
19 Code is amended by striking out “1(h), 1201, and
20 1211” and inserting in lieu thereof “1(h), 1201,
21 1211, and 1301, and for purposes of section
22 57(a)(8)”.

23 (9) Clause (iii) of section 852(b)(3)(D) of such
24 Code is amended by striking out “66 percent” and

1 inserting “the rate differential portion (within the
2 meaning of section 904(b)(3)(E))”.

3 (10) The second sentence of paragraph (2) of
4 section 871(a) of such Code is amended by inserting
5 “such gains and losses shall be determined without
6 regard to section 1301 (relating to deduction for
7 qualified small business net capital gains) and” after
8 “except that”.

9 (11) Section 1402(i)(1) of such Code is amend-
10 ed to read as follows:

11 “(1) IN GENERAL.—In determining the net
12 earnings from self-employment of any options dealer
13 or commodities dealer—

14 “(A) notwithstanding subsection (a)(3)(A),
15 there shall not be excluded any gain or loss (in
16 the normal course of the taxpayer’s activity of
17 dealing in or trading section 1256 contracts)
18 from section 1256 contracts or property related
19 to such contracts, and

20 “(B) the deduction provided by section
21 1301 shall not apply.”.

22 (12) Section 1445(e)(1) of such Code is amend-
23 ed by striking out “34 percent (or, to the extent pro-
24 vided in regulations, 28 percent)” and inserting “34
25 percent (or, to the extent provided in regulations,

1 the alternative tax rate determined under section
2 904(b)(3)(E)(iii))”.

3 (f) EFFECTIVE DATE.—

4 (1) IN GENERAL.—The amendments made by
5 this section shall apply to stock issued after Decem-
6 ber 31, 1993.

7 (2) APPLICATION OF TAX INCENTIVE TO CUR-
8 RENT STOCK HOLDINGS OF INVESTORS.—

9 (A) IN GENERAL.—If—

10 (i) a taxpayer holds any stock on any
11 date on or after the date determined under
12 paragraph (1) which, at the time it was is-
13 sued, would be treated as qualified small
14 business stock (as defined in section
15 1302(a) of the Internal Revenue Code of
16 1986) without regard to the time it was is-
17 sued, and

18 (ii) the value of such stock on such
19 date exceeds its adjusted basis,

20 the taxpayer may elect to treat such stock as
21 having been sold on such date for an amount
22 equal to its value on such date (and as having
23 been reacquired on such date for an amount
24 equal to such value). The gain from such sale
25 shall be treated as received or accrued (and the

holding period of the reacquired stock shall be treated as beginning) on such date. For purposes of applying section 1301 of such Code, such stock shall be treated after such reacquisition as acquired in the same manner and at the same time as the original acquisition and the requirement of section 1302(a)(1) that the stock must have been issued after December 31, 1993, shall not apply.

(B) ELECTION.—An election under subparagraph (A) with respect to any stock shall be made in such manner as the Secretary may prescribe. Such an election, once made with respect to any stock, shall be irrevocable.

TITLE III—SOCIAL SECURITY EARNINGS TEST

SEC. 301. RETIREMENT TEST EXEMPT AMOUNT INCREASED.

(a) IN GENERAL.—Section 203(f)(8)(D) of the Social Security Act (42 U.S.C. 403(f)(8)(D)) is amended to read as follows:

“(D) Notwithstanding any other provision of this subsection, the exempt amount which is applicable to an individual who has attained retirement age (as defined in section 216(l)) before the close of the taxable year involved shall be—

1 “(i) \$925 for each month of any taxable year
2 ending after 1992 and before 1994,

3 “(ii) \$1,020 for each month of any taxable year
4 ending after 1993 and before 1995,

5 “(iii) \$1,130 for each month of any taxable
6 year ending after 1994 and before 1996,

7 “(iv) \$1,450 for each month of any taxable year
8 ending after 1995 and before 1997,

9 “(v) \$1,750 for each month of any taxable year
10 ending after 1996 and before 1998,

11 “(vi) \$2,250 for each month of any taxable year
12 ending after 1997 and before 1999,

13 “(vii) \$2,670 for each month of any taxable
14 year ending after 1998 and before 2000,

15 “(viii) \$3,500 for each month of any taxable
16 year ending after 1999 and before 2001, and

17 “(ix) \$4,250 for each month of any taxable year
18 ending after 2000 and before 2002.”.

19 (b) CONFORMING AMENDMENT.—Section
20 203(f)(8)(B)(ii)(II) of such Act (42 U.S.C.
21 403(f)(8)(B)(ii)(II)) is amended by striking “for the cal-
22 endar year before the most recent calendar year in which
23 an increase in the exempt amount was enacted or a deter-
24 mination resulting in such an increase was made under
25 subparagraph (A)” and inserting “for the second calendar

1 year before the calendar year in which the determination
2 under subparagraph (A) is made”.

3 (c) EFFECTIVE DATE.—The amendments made by
4 this section shall apply to taxable years ending after De-
5 cember 31, 1992.

6 **SEC. 302. REDUCTION FACTOR WITH RESPECT TO CERTAIN**
7 **EARNINGS LOWERED TO 25 PERCENT.**

8 (a) IN GENERAL.—Section 203(f)(3) of the Social
9 Security Act (42 U.S.C. 403(f)(3)) is amended by striking
10 “33 $\frac{1}{3}$ percent” and all that follows through “paragraph
11 (8)” and inserting “equal to the sum of (A) 25 percent
12 of so much of his earnings for such year in excess of the
13 product of the applicable exempt amount as determined
14 under paragraph (8) as does not exceed \$5,000, and (B)
15 33 $\frac{1}{3}$ percent of so much of such earnings in excess of
16 such product as exceeds \$5,000,”.

17 (b) EFFECTIVE DATE.—The amendment made by
18 subsection (a) shall apply to taxable years beginning after
19 December 31, 1997.

1 **TITLE IV—URBAN TAX ENTER-**
2 **PRISE ZONES AND RURAL DE-**
3 **VELOPMENT INVESTMENT**
4 **ZONES**

5 **SEC. 401. STATEMENT OF PURPOSE.**

6 It is the purpose of this title to establish a demonstra-
7 tion program of providing incentives for the creation of
8 tax enterprise zones in order—

9 (1) to revitalize economically and physically dis-
10 tressed areas, primarily by encouraging the forma-
11 tion of new businesses and the retention and expan-
12 sion of existing businesses,

13 (2) to promote meaningful employment for tax
14 enterprise zone residents, and

15 (3) to encourage individuals to reside in the tax
16 enterprise zones in which they are employed.

17 **Subtitle A—Designation and Tax**
18 **Incentives**

19 **SEC. 411. DESIGNATION AND TREATMENT OF URBAN TAX**
20 **ENTERPRISE ZONES AND RURAL DEVELOP-**
21 **MENT INVESTMENT ZONES.**

22 (a) IN GENERAL.—Chapter 1 of the Internal Reve-
23 nue Code of 1986 (relating to normal taxes and surtaxes)
24 is amended by inserting after subchapter T the following
25 new subchapter:

1 **“Subchapter U—Designation and Treatment**
 2 **of Tax Enterprise Zones**

“Part I. Designation of tax enterprise zones.

“Part II. Incentives for tax enterprise zones.

3 **“PART I—DESIGNATION OF TAX ENTERPRISE**
 4 **ZONES**

“Sec. 1391. Designation procedure.

“Sec. 1392. Eligibility and selection criteria.

“Sec. 1393. Definitions and special rules.

5 **“SEC. 1391. DESIGNATION PROCEDURE.**

6 “(a) IN GENERAL.—For purposes of this title, the
 7 term ‘tax enterprise zone’ means any area which is, under
 8 this part—

9 “(1) nominated by 1 or more local governments
 10 and the State in which it is located for designation
 11 as a tax enterprise zone, and

12 “(2) designated by—

13 “(A) the Secretary of Housing and Urban
 14 Development in the case of an urban tax enter-
 15 prise zone, or

16 “(B) the Secretary of Agriculture, in con-
 17 sultation with the Secretary of Commerce, in
 18 the case of a rural development investment
 19 zone.

20 “(b) NUMBER OF DESIGNATIONS.—

21 “(1) AGGREGATE LIMIT.—The appropriate Sec-
 22 retaries may designate in the aggregate 50 nomi-

1 nated areas as tax enterprise zones under this sec-
2 tion, subject to the availability of eligible nominated
3 areas. Not more than 25 urban tax enterprise zones
4 may be designated and not more than 25 rural de-
5 velopment investment zones may be designated.
6 Such designations may be made only during cal-
7 endar years after 1992 and before 1998.

8 “(2) ANNUAL LIMITS.—

9 “(A) URBAN TAX ENTERPRISE ZONES.—

10 The number of urban tax enterprise zones des-
11 ignated under paragraph (1)—

12 “(i) before 1995 shall not exceed 8,

13 “(ii) before 1996 shall not exceed 15,

14 and

15 “(iii) before 1997 shall not exceed 21.

16 “(B) RURAL DEVELOPMENT INVESTMENT

17 ZONES.—The number of rural development in-
18 vestment zones designated under paragraph
19 (1)—

20 “(i) before 1995 shall not exceed 8,

21 “(ii) before 1996 shall not exceed 15,

22 and

23 “(iii) before 1997 shall not exceed 21.

24 “(3) ADVANCE DESIGNATIONS PERMITTED.—

25 For purposes of this subchapter, a designation dur-

1 ing any calendar year shall be treated as made on
2 January 1 of the following calendar year if the ap-
3 propriate Secretary, in making such designation,
4 specifies that such designation is effective as of such
5 January 1.

6 “(c) LIMITATIONS ON DESIGNATIONS.—The appro-
7 priate Secretary may not make any designation under sub-
8 section (a) unless—

9 “(1) the local governments and the State in
10 which the nominated area is located have the
11 authority—

12 “(A) to nominate the area for designation
13 as a tax enterprise zone, and

14 “(B) to provide assurances satisfactory to
15 the appropriate Secretary that the commit-
16 ments under section 1392(c) will be fulfilled,

17 “(2) a nomination of the area is submitted
18 within a reasonable time before the calendar year for
19 which designation as a tax enterprise zone is sought
20 (or, if later, a reasonable time after the date of the
21 enactment of this subchapter),

22 “(3) the appropriate Secretary determines that
23 any information furnished is reasonably accurate,
24 and

1 “(4) the State and local governments certify
2 that no portion of the area nominated is already in-
3 cluded in a tax enterprise zone or in an area other-
4 wise nominated to be a tax enterprise zone.

5 “(d) PERIOD FOR WHICH DESIGNATION IS IN EF-
6 FECT.—

7 “(1) IN GENERAL.—Any designation of an area
8 as a tax enterprise zone shall remain in effect during
9 the period beginning on the date of the designation
10 and ending on the earliest of—

11 “(A) December 31 of the 15th calendar
12 year following the calendar year in which such
13 date occurs,

14 “(B) the termination date designated by
15 the State and local governments as provided for
16 in their nomination, or

17 “(C) the date the appropriate Secretary re-
18 vokes the designation under paragraph (2).

19 “(2) REVOCATION OF DESIGNATION.—

20 “(A) IN GENERAL.—The appropriate Sec-
21 retary shall revoke the designation of an area
22 as a tax enterprise zone if such Secretary deter-
23 mines that the local government or the State in
24 which it is located—

1 “(i) has modified the boundaries of
2 the area, or

3 “(ii) is not complying substantially
4 with the State and local commitments pur-
5 suant to section 1392(c).

6 “(B) APPLICABLE PROCEDURES.—A des-
7 ignation may be revoked by the appropriate
8 Secretary under subparagraph (A) only after a
9 hearing on the record involving officials of the
10 State or local government involved.

11 **“SEC. 1392. ELIGIBILITY AND SELECTION CRITERIA.**

12 “(a) IN GENERAL.—The appropriate Secretary may
13 make a designation of any nominated area under section
14 1391 only on the basis of the eligibility and selection cri-
15 teria set forth in this section.

16 “(b) ELIGIBILITY CRITERIA.—

17 “(1) URBAN TAX ENTERPRISE ZONES.—A nom-
18 inated area which is not a rural area shall be eligible
19 for designation under section 1391 only if it meets
20 the following criteria:

21 “(A) POPULATION.—The nominated area
22 has a population (as determined by the most re-
23 cent census data available) of not less than
24 4,000.

1 “(B) DISTRESS.—The nominated area is
2 one of pervasive poverty, unemployment, and
3 general distress.

4 “(C) SIZE.—The nominated area—

5 “(i) does not exceed 20 square miles,

6 “(ii) has a boundary which is continu-
7 ous, or consists of not more than 3 non-
8 contiguous parcels within the same metro-
9 politan area,

10 “(iii) is located entirely within 1
11 State, and

12 “(iv) does not include any portion of
13 a central business district (as such term is
14 used for purposes of the most recent Cen-
15 sus of Retail Trade).

16 “(D) UNEMPLOYMENT RATE.—The unem-
17 ployment rate (as determined by the appro-
18 priate available data) is not less than 1.5 times
19 the national unemployment rate.

20 “(E) POVERTY RATE.—The poverty rate
21 (as determined by the most recent census data
22 available) for not less than 90 percent of the
23 population census tracts (or where not tracted,
24 the equivalent county divisions as defined by
25 the Bureau of the Census for the purposes of

1 defining poverty areas) within the nominated
2 area is not less than 20 percent.

3 “(F) COURSE OF ACTION.—There has been
4 adopted for the nominated area a course of ac-
5 tion which meets the requirements of subsection
6 (c).

7 “(2) RURAL DEVELOPMENT INVESTMENT
8 ZONES.—A nominated area which is a rural area
9 shall be eligible for designation under section 1391
10 only if it meets the following criteria:

11 “(A) POPULATION.—The nominated area
12 has a population (as determined by the most re-
13 cent census data available) of not less than
14 1,000.

15 “(B) DISTRESS.—The nominated area is
16 one of general distress.

17 “(C) SIZE.—The nominated area—

18 “(i) does not exceed 10,000 square
19 miles,

20 “(ii) consists of areas within not more
21 than 4 contiguous counties,

22 “(iii) has a boundary which is contin-
23 uous, or consists of not more than 3 non-
24 contiguous parcels, and

1 “(iv) is located entirely within 1
2 State.

3 “(D) ADDITIONAL CRITERIA.—Not less
4 than 2 of the following criteria:

5 “(i) UNEMPLOYMENT RATE.—The cri-
6 terion set forth in paragraph (1)(D).

7 “(ii) POVERTY RATE.—The criterion
8 set forth in paragraph (1)(E).

9 “(iii) JOB LOSS.—The amount of
10 wages attributable to employment in the
11 area, and subject to tax under section
12 3301 during the preceding calendar year,
13 is not more than 95 percent of such wages
14 during the 5th preceding calendar year.

15 “(iv) OUT-MIGRATION.—The popu-
16 lation of the area decreased (as determined
17 by the most recent census data available)
18 by 10 percent or more between 1980 and
19 1990.

20 “(E) COURSE OF ACTION.—There has been
21 adopted for the nominated area a course of ac-
22 tion which meets the requirements of subsection
23 (c).

24 “(3) AREAS WITHIN INDIAN RESERVATIONS IN-
25 ELIGIBLE.—A nominated area shall not be eligible

1 for designation under section 1391 if any portion of
2 such area is within an Indian reservation.

3 “(c) REQUIRED STATE AND LOCAL COURSE OF AC-
4 TION.—

5 “(1) IN GENERAL.—No nominated area may be
6 designated as a tax enterprise zone unless the local
7 government and the State in which it is located
8 agree in writing that, during any period during
9 which the area is a tax enterprise zone, the govern-
10 ments will follow a specified course of action de-
11 signed to reduce the various burdens borne by em-
12 ployers or employees in the area.

13 “(2) COURSE OF ACTION.—The course of action
14 under paragraph (1) may be implemented by both
15 governments and private nongovernmental entities,
16 may not be funded from proceeds of any Federal
17 program (other than discretionary proceeds), and
18 may include—

19 “(A) a certification by the State insurance
20 commissioner (or similar State official) that
21 basic commercial property insurance of a type
22 comparable to that insurance generally in force
23 in urban or rural areas, whichever is applicable,
24 throughout the State is available to businesses
25 within the tax enterprise zone,

1 “(B) a reduction of tax rates or fees apply-
2 ing within the tax enterprise zone,

3 “(C) an increase in the level, or efficiency
4 of delivery, of local public services within the
5 tax enterprise zone,

6 “(D) actions to reduce, remove, simplify,
7 or streamline government paperwork require-
8 ments applicable within the tax enterprise zone,

9 “(E) the involvement in the program by
10 public authorities or private entities, organiza-
11 tions, neighborhood associations, and commu-
12 nity groups, particularly those within the nomi-
13 nated area, including a written commitment to
14 provide jobs and job training for, and technical,
15 financial, or other assistance to, employers, em-
16 ployees, and residents of the nominated area,

17 “(F) the giving of special preference to
18 contractors owned and operated by members of
19 any socially and economically disadvantaged
20 group (within the meaning of section 8(a) of
21 the Small Business Act (15 U.S.C. 637(a)),

22 “(G) the gift (or sale at below fair market
23 value) of surplus land in the tax enterprise zone
24 to neighborhood organizations agreeing to oper-
25 ate a business on the land,

1 “(H) the establishment of a program
2 under which employers within the tax enterprise
3 zone may purchase health insurance for their
4 employees on a pooled basis,

5 “(I) the establishment of a program to en-
6 courage local financial institutions to satisfy
7 their obligations under the Community Rein-
8 vestment Act of 1977 (12 U.S.C. 2901 et seq.)
9 by making loans to enterprise zone businesses,
10 with emphasis on startup and other small-busi-
11 ness concerns (as defined in section 3(a) of the
12 Small Business Act (15 U.S.C. 632(a)),

13 “(J) the giving of special preference to
14 qualified low-income housing projects located in
15 tax enterprise zones, in the allocation of the
16 State housing credit ceiling applicable under
17 section 42, and

18 “(K) the giving of special preference to fa-
19 cilities located in tax enterprise zones, in the al-
20 location of the State ceiling on private activity
21 bonds applicable under section 146.

22 “(3) RECOGNITION OF PAST EFFORTS.—In
23 evaluating courses of action agreed to by any State
24 or local government, the appropriate Secretary shall
25 take into account the past efforts of the State or

1 local government in reducing the various burdens
2 borne by employers and employees in the area in-
3 volved.

4 “(4) PROHIBITION OF ASSISTANCE FOR BUSI-
5 NESS RELOCATIONS.—

6 “(A) IN GENERAL.—The course of action
7 implemented under paragraph (1) may not in-
8 clude any action to assist any establishment in
9 relocating from one area to another area.

10 “(B) EXCEPTION.—The limitation estab-
11 lished in subparagraph (A) shall not be con-
12 strued to prohibit assistance for the expansion
13 of an existing business entity through the estab-
14 lishment of a new branch, affiliate, or subsidi-
15 ary if—

16 “(i) the establishment of the new
17 branch, affiliate, or subsidiary will not re-
18 sult in an increase in unemployment in the
19 area of original location or in any other
20 area where the existing business entity
21 conducts business operations, and

22 “(ii) there is no reason to believe that
23 the new branch, affiliate, or subsidiary is
24 being established with the intention of clos-
25 ing down the operations of the existing

1 business entity in the area of its original
2 location or in any other area where the ex-
3 isting business entity conducts business op-
4 erations.

5 “(d) SELECTION CRITERIA.—From among the nomi-
6 nated areas eligible for designation under subsection (b)
7 by the appropriate Secretary, such appropriate Secretary
8 shall make designations of tax enterprise zones on the
9 basis of the following factors (each of which is to be given
10 equal weight):

11 “(1) STATE AND LOCAL COMMITMENTS.—The
12 strength and quality of the commitments which have
13 been promised as part of the course of action rel-
14 ative to the fiscal ability of the nominating State
15 and local governments.

16 “(2) IMPLEMENTATION OF COURSE OF AC-
17 TION.—The effectiveness and enforceability of the
18 guarantees that the course of action will actually be
19 carried out, including the specificity with which the
20 commitments under paragraph (1) are described in
21 order that the applicable Secretary will be better
22 able to determine annually under section
23 1391(d)(2)(A)(ii) whether the commitments are
24 being carried out.

1 “(3) PRIVATE COMMITMENTS.—The level of
2 commitments by private entities of additional re-
3 sources and contributions to the economy of the
4 nominated area, including the creation of new or ex-
5 panded business activities.

6 “(4) AVERAGE RANKINGS.—The average rank-
7 ing with respect to—

8 “(A) the criteria set forth in subpara-
9 graphs (D) and (E) of subsection (b)(1), in the
10 case of an area which is not a rural area, or

11 “(B) the 2 criteria set forth in subsection
12 (b)(2)(D) that give the area a higher average
13 ranking, in the case of a rural area.

14 “(5) REVITALIZATION POTENTIAL.—The poten-
15 tial for the revitalization of the nominated area as
16 a result of zone designation, taking into account
17 particularly the number of jobs to be created and re-
18 tained.

19 **“SEC. 1393. DEFINITIONS AND SPECIAL RULES.**

20 For purposes of this subchapter—

21 “(1) URBAN TAX ENTERPRISE ZONE.—The
22 term ‘urban tax enterprise zone’ means a tax enter-
23 prise zone which meets the requirements of section
24 1392(b)(1).

1 “(2) RURAL DEVELOPMENT INVESTMENT
2 ZONE.—The term ‘rural development investment
3 zone’ means a tax enterprise zone which meets the
4 requirements of section 1392(b)(2).

5 “(3) GOVERNMENTS.—If more than 1 local gov-
6 ernment seeks to nominate an area as a tax enter-
7 prise zone, any reference to, or requirement of, this
8 subchapter shall apply to all such governments.

9 “(4) LOCAL GOVERNMENT.—The term ‘local
10 government’ means—

11 “(A) any county, city, town, township, par-
12 ish, village, or other general purpose political
13 subdivision of a State, and

14 “(B) any combination of political subdivi-
15 sions described in subparagraph (A) recognized
16 by the appropriate Secretary.

17 “(5) NOMINATED AREA.—The term ‘nominated
18 area’ means an area which is nominated by 1 or
19 more local governments and the State in which it is
20 located for designation as a tax enterprise zone
21 under this subchapter.

22 “(6) RURAL AREA.—The term ‘rural area’
23 means any area which is—

1 “(A) outside of a metropolitan statistical
2 area (within the meaning of section
3 143(k)(2)(B)), or

4 “(B) determined by the Secretary of Agri-
5 culture, after consultation with the Secretary of
6 Commerce, to be a rural area.

7 “(7) APPROPRIATE SECRETARY.—The term ‘ap-
8 propriate Secretary’ means—

9 “(A) the Secretary of Housing and Urban
10 Development in the case of urban tax enterprise
11 zones, and

12 “(B) the Secretary of Agriculture in the
13 case of rural development investment zones.

14 “(8) STATE-CHARTERED DEVELOPMENT COR-
15 PORATIONS.—An area shall be treated as nominated
16 by a State and a local government if it is nominated
17 by an economic development corporation chartered
18 by the State.

19 **“PART II—INCENTIVES FOR TAX ENTERPRISE**
20 **ZONES**

“SUBPART A. Enterprise zone employment credit.

“SUBPART B. Investment incentives.

“SUBPART C. Regulations.

21 **“Subpart A—Enterprise Zone Employment Credit**

“Sec. 1394. Enterprise zone employment credit.

“Sec. 1395. Other definitions and special rules.

1 **"SEC. 1394. ENTERPRISE ZONE EMPLOYMENT CREDIT.**

2 “(a) **AMOUNT OF CREDIT.**—For purposes of section
3 38, the amount of the enterprise zone employment credit
4 determined under this section with respect to any em-
5 ployer for any taxable year is 15 percent of the qualified
6 zone wages paid or incurred during such taxable year.

7 “(b) **QUALIFIED ZONE WAGES.**—

8 “(1) **IN GENERAL.**—For purposes of this sec-
9 tion, the term ‘qualified zone wages’ means any
10 wages paid or incurred by an employer for services
11 performed by an employee while such employee is a
12 qualified zone employee.

13 “(2) **ONLY FIRST \$20,000 OF WAGES PER YEAR**
14 **TAKEN INTO ACCOUNT.**—With respect to each quali-
15 fied zone employee, the amount of qualified zone
16 wages which may be taken into account for the tax-
17 able year shall not exceed \$20,000.

18 “(3) **COORDINATION WITH TARGETED JOBS**
19 **CREDIT.**—The term ‘qualified zone wages’ shall not
20 include wages attributable to service rendered during
21 the 1-year period beginning with the day the individ-
22 ual begins work for the employer if any portion of
23 such wages is taken into account in determining the
24 credit under section 51.

25 “(c) **QUALIFIED ZONE EMPLOYEE.**—For purposes of
26 this section—

1 “(1) IN GENERAL.—Except as otherwise pro-
2 vided in this subsection, the term ‘qualified zone em-
3 ployee’ means, with respect to any period, any em-
4 ployee of an employer if—

5 “(A) substantially all of the services per-
6 formed during such period by such employee for
7 such employer are performed within a tax en-
8 terprise zone in a trade or business of the em-
9 ployer, and

10 “(B) the principal place of abode of such
11 employee while performing such services is
12 within such tax enterprise zone.

13 “(2) CERTAIN INDIVIDUALS NOT ELIGIBLE.—
14 The term ‘qualified zone employee’ shall not
15 include—

16 “(A) any individual described in subpara-
17 graph (A), (B), or (C) of section 51(i)(1),

18 “(B) any 5-percent owner (as defined in
19 section 416(i)(1)(B)),

20 “(C) any individual employed by the em-
21 ployer at any facility described in section
22 144(c)(6)(B), and

23 “(D) any individual employed by the em-
24 ployer in a trade or business the principal activ-
25 ity of which is farming (within the meaning of

1 subparagraphs (A) or (B) of section
2 2032A(e)(5)), but only if, as of the close of the
3 taxable year, the sum of—

4 “(i) the aggregate unadjusted bases
5 (or, if greater, the fair market value) of
6 the assets owned by the employer which
7 are used in such a trade or business, and

8 “(ii) the aggregate value of assets
9 leased by the employer which are used in
10 such a trade or business (as determined
11 under regulations prescribed by the Sec-
12 retary),
13 exceeds \$500,000.

14 “(d) EARLY TERMINATION OF EMPLOYMENT BY EM-
15 PLOYER.—

16 “(1) IN GENERAL.—If the employment of any
17 employee is terminated by the taxpayer before the
18 day 1 year after the day on which such employee
19 began work for the employer—

20 “(A) no wages with respect to such em-
21 ployee shall be taken into account under sub-
22 section (a) for the taxable year in which such
23 employment is terminated, and

24 “(B) the tax under this chapter for the
25 taxable year in which such employment is ter-

minated shall be increased by the aggregate credits (if any) allowed under section 38(a) for prior taxable years by reason of wages taken into account with respect to such employee.

“(2) CARRYBACKS AND CARRYOVERS ADJUSTED.—In the case of any termination of employment to which paragraph (1) applies, the carrybacks and carryovers under section 39 shall be properly adjusted.

“(3) SUBSECTION NOT TO APPLY IN CERTAIN CASES.—

“(A) IN GENERAL.—Paragraph (1) shall not apply to—

“(i) a termination of employment of an employee who voluntarily leaves the employment of the taxpayer,

“(ii) a termination of employment of an individual who before the close of the period referred to in paragraph (1) becomes disabled to perform the services of such employment unless such disability is removed before the close of such period and the taxpayer fails to offer reemployment to such individual, or

1 “(iii) a termination of employment of
2 an individual if it is determined under the
3 applicable State unemployment compensa-
4 tion law that the termination was due to
5 the misconduct of such individual.

6 “(B) CHANGES IN FORM OF BUSINESS.—
7 For purposes of paragraph (1), the employment
8 relationship between the taxpayer and an em-
9 ployee shall not be treated as terminated—

10 “(i) by a transaction to which section
11 381(a) applies if the employee continues to
12 be employed by the acquiring corporation,
13 or

14 “(ii) by reason of a mere change in
15 the form of conducting the trade or busi-
16 ness of the taxpayer if the employee con-
17 tinues to be employed in such trade or
18 business and the taxpayer retains a sub-
19 stantial interest in such trade or business.

20 “(4) SPECIAL RULE.—Any increase in tax
21 under paragraph (1) shall not be treated as a tax
22 imposed by this chapter for purposes of—

23 “(A) determining the amount of any credit
24 allowable under this chapter, and

1 “(B) determining the amount of the tax
2 imposed by section 55.

3 **“SEC. 1395. OTHER DEFINITIONS AND SPECIAL RULES.**

4 “(a) WAGES.—For purposes of this subpart, the term
5 ‘wages’ has the same meaning as when used in section
6 51.

7 “(b) CONTROLLED GROUPS.—For purposes of this
8 subpart—

9 “(1) all employers treated as a single employer
10 under subsection (a) or (b) of section 52 shall be
11 treated as a single employer for purposes of this
12 subpart, and

13 “(2) the credit (if any) determined under sec-
14 tion 1394 with respect to each such employer shall
15 be its proportionate share of the wages giving rise
16 to such credit.

17 “(c) CERTAIN OTHER RULES MADE APPLICABLE.—
18 For purposes of this subpart, rules similar to the rules
19 of section 51(k) and subsections (c), (d), and (e) of section
20 52 shall apply.

21 “(d) NOTICE OF AVAILABILITY OF ADVANCE PAY-
22 MENT OF EARNED INCOME CREDIT.—Each employer
23 shall take reasonable steps to notify all qualified zone em-
24 ployees of the availability to eligible individuals of receiv-

1 ing advanced payments of the credit under section 32 (re-
2 lating to the earned income credit).

3 **“Subpart B—Investment Incentives**

“Sec. 1396. Deduction for purchase of enterprise zone stock.

“Sec. 1397. 50 percent exclusion for gain from new zone invest-
ments.

“Sec. 1397A. Nonrecognition of gain from new zone investments.

“Sec. 1397B. Other incentives.

“Sec. 1397C. Enterprise zone business defined.

4 **“SEC. 1396. DEDUCTION FOR PURCHASE OF ENTERPRISE**
5 **ZONE STOCK.**

6 “(a) GENERAL RULE.—In the case of an individual,
7 there shall be allowed as a deduction an amount equal to
8 50 percent of the aggregate amount paid in cash by the
9 taxpayer during the taxable year for the purchase of enter-
10 prise zone stock.

11 “(b) LIMITATION.—

12 “(1) IN GENERAL.—The maximum amount al-
13 lowed as a deduction under subsection (a) to a tax-
14 payer for the taxable year shall not exceed the lesser
15 of—

16 “(A) \$25,000, or

17 “(B) the excess of \$250,000 over the
18 amount allowed as a deduction under this sec-
19 tion to the taxpayer for all prior taxable years.

20 “(2) EXCESS AMOUNTS.—If the amount other-
21 wise deductible by any person under subsection (a)
22 exceeds the limitation under paragraph (1)(A)—

1 “(A) the amount of such excess shall be
2 treated as an amount paid to which subsection
3 (a) applies during the next taxable year, and

4 “(B) the deduction allowed for any taxable
5 year shall be allocated proportionately among
6 the enterprise zone stock purchased by such
7 person on the basis of the respective purchase
8 prices per share.

9 “(3) AGGREGATION WITH FAMILY MEMBERS.—
10 The taxpayer and members of the taxpayer’s family
11 shall be treated as one person for purposes of para-
12 graph (1), and the limitations contained in such
13 paragraph shall be allocated among the taxpayer and
14 such members in accordance with their respective
15 purchases of enterprise zone stock. For purposes of
16 this paragraph, an individual’s family includes only
17 such individual’s spouse and minor children.

18 “(c) ENTERPRISE ZONE STOCK.—For purposes of
19 this section—

20 “(1) IN GENERAL.—The term ‘enterprise zone
21 stock’ means stock of a corporation if—

22 “(A) such stock is acquired on original
23 issue from the corporation, and

24 “(B) such corporation is, at the time of
25 issue, a qualified enterprise zone issuer.

1 “(2) PROCEEDS MUST BE INVESTED IN QUALI-
2 FIED ENTERPRISE ZONE PROPERTY.—

3 “(A) IN GENERAL.—Such term shall in-
4 clude such stock only to the extent that the pro-
5 ceeds of such issuance are used by such issuer
6 during the 12-month period beginning on the
7 date of issuance to purchase (as defined in sec-
8 tion 179(d)(2)) qualified enterprise zone prop-
9 erty.

10 “(B) QUALIFIED ENTERPRISE ZONE PROP-
11 ERTY.—For purposes of this section, the term
12 ‘qualified enterprise zone property’ means prop-
13 erty to which section 168 applies—

14 “(i) the original use of which in a tax
15 enterprise zone commences with the issuer,
16 and

17 “(ii) substantially all of the use of
18 which is in a tax enterprise zone.

19 “(3) REDEMPTIONS.—The term ‘enterprise
20 zone stock’ shall not include any stock acquired from
21 a corporation which made a substantial stock re-
22 demption or distribution (without a bona fide busi-
23 ness purpose therefor) in an attempt to avoid the
24 purposes of this section.

1 “(d) QUALIFIED ENTERPRISE ZONE ISSUER.—For
2 purposes of this section, the term ‘qualified enterprise
3 zone issuer’ means any domestic C corporation if—

4 “(1) such corporation is an enterprise zone
5 business or, in the case of a new corporation, such
6 corporation is being organized for purposes of being
7 an enterprise zone business,

8 “(2) such corporation does not have more than
9 one class of stock,

10 “(3) the sum of—

11 “(A) the money,

12 “(B) the aggregate unadjusted bases of
13 property owned by such corporation, and

14 “(C) the value of property leased to the
15 corporation (as determined under regulations
16 prescribed by the Secretary),

17 does not exceed \$5,000,000, and

18 “(4) more than 20 percent of the total voting
19 power, and 20 percent of the total value, of the
20 stock of such corporation is owned directly by indi-
21 viduals or estates or indirectly by individuals
22 through partnerships or trusts.

23 The determination under paragraph (3) shall be made as
24 of the time of issuance of the stock in question but shall
25 include amounts received for such stock.

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1 “(e) DISPOSITIONS OF STOCK.—

2 “(1) BASIS REDUCTION.—For purposes of this
3 title, the basis of any enterprise zone stock shall be
4 reduced by the amount of the deduction allowed
5 under this section with respect to such stock.

6 “(2) DEDUCTION RECAPTURED AS ORDINARY
7 INCOME.—For purposes of section 1245—

8 “(A) any stock the basis of which is re-
9 duced under paragraph (1) (and any other
10 property the basis of which is determined in
11 whole or in part by reference to the adjusted
12 basis of such stock) shall be treated as section
13 1245 property, and

14 “(B) any reduction under paragraph (1)
15 shall be treated as a deduction allowed for de-
16 preciation.

17 If an exchange of any stock described in paragraph
18 (1) qualifies under section 354(a), 355(a), or
19 356(a), the amount of gain recognized under section
20 1245 by reason of this paragraph shall not exceed
21 the amount of gain recognized in the exchange (de-
22 termined without regard to this paragraph).

23 “(3) CERTAIN EVENTS TREATED AS DISPOSI-
24 TIONS.—For purposes of determining the amount
25 treated as ordinary income under section 1245 by

1 reason of paragraph (2), paragraph (3) of section
2 1245(b) (relating to certain tax-free transactions)
3 shall not apply.

4 “(4) INTEREST CHARGED IF DISPOSITION
5 WITHIN 5 YEARS OF PURCHASE.—

6 “(A) IN GENERAL.—If—

7 “(i) a taxpayer disposes of any enter-
8 prise zone stock with respect to which a
9 deduction was allowed under subsection (a)
10 (or any other property the basis of which
11 is determined in whole or in part by ref-
12 erence to the adjusted basis of such stock)
13 before the end of the 5-year period begin-
14 ning on the date such stock was purchased
15 by the taxpayer, and

16 “(ii) section 1245(a) applies to such
17 disposition by reason of paragraph (2),
18 then the tax imposed by this chapter for the
19 taxable year in which such disposition occurs
20 shall be increased by the amount determined
21 under subparagraph (B).

22 “(B) ADDITIONAL AMOUNT.—For purposes
23 of subparagraph (A), the additional amount
24 shall be equal to the amount of interest (deter-

1 mined at the rate applicable under section
2 6621(a)(2)) that would accrue—

3 “(i) during the period beginning on
4 the date the stock was purchased by the
5 taxpayer and ending on the date of such
6 disposition by the taxpayer,

7 “(ii) on an amount equal to the aggre-
8 gate decrease in tax of the taxpayer result-
9 ing from the deduction allowed under this
10 subsection (a) with respect to such stock.

11 “(C) SPECIAL RULE.—Any increase in tax
12 under subparagraph (A) shall not be treated as
13 a tax imposed by this chapter for purposes of—

14 “(i) determining the amount of any
15 credit allowable under this chapter, and

16 “(ii) determining the amount of the
17 tax imposed by section 55.

18 “(f) DISQUALIFICATION.—

19 “(1) ISSUER CEASES TO QUALIFY.—If, during
20 the 10-year period beginning on the date enterprise
21 zone stock was purchased by the taxpayer, the issuer
22 of such stock ceases to be a qualified enterprise zone
23 issuer (determined without regard to subsection
24 (d)(3)), then notwithstanding any provision of this
25 subtitle other than paragraph (2), the taxpayer shall

1 be treated for purposes of subsection (e) as dispos-
2 ing of such stock (and any other property the basis
3 of which is determined in whole or in part by ref-
4 erence to the adjusted basis of such stock) during
5 the taxable year during which such cessation occurs
6 at its fair market value as of the 1st day of such
7 taxable year.

8 “(2) CESSATION OF ENTERPRISE ZONE STATUS
9 NOT TO CAUSE RECAPTURE.—A corporation shall
10 not fail to be treated as a qualified enterprise zone
11 issuer for purposes of paragraph (1) solely by reason
12 of the termination or revocation of a tax enterprise
13 zone designation.

14 “(g) OTHER SPECIAL RULES.—

15 “(1) APPLICATION OF LIMITS TO PARTNER-
16 SHIPS AND S CORPORATIONS.—In the case of a part-
17 nership or an S corporation, the limitations under
18 subsection (b) shall apply at the partner and share-
19 holder level and shall not apply at the partnership
20 or corporation level.

21 “(2) DEDUCTION NOT ALLOWED TO ESTATES
22 AND TRUSTS.—Estates and trusts shall not be treat-
23 ed as individuals for purposes of this section.

1 **"SEC. 1397. 50 PERCENT EXCLUSION FOR GAIN FROM NEW**
2 **ZONE INVESTMENTS.**

3 “(a) GENERAL RULE.—In the case of an individual,
4 gross income shall not include 50 percent of any qualified
5 capital gain recognized on the sale or exchange of a quali-
6 fied zone asset held for more than 5 years.

7 “(b) QUALIFIED ZONE ASSET.—For purposes of this
8 section—

9 “(1) IN GENERAL.—The term ‘qualified zone
10 asset’ means—

11 “(A) any qualified zone stock,

12 “(B) any qualified zone business property,
13 and

14 “(C) any qualified zone partnership inter-
15 est.

16 “(2) QUALIFIED ZONE STOCK.—

17 “(A) IN GENERAL.—Except as provided in
18 subparagraph (B), the term ‘qualified zone
19 stock’ means any stock in a domestic corpora-
20 tion if—

21 “(i) such stock is acquired by the tax-
22 payer on original issue from the corpora-
23 tion solely in exchange for cash,

24 “(ii) as of the time such stock was is-
25 sued, such corporation was an enterprise
26 zone business (or, in the case of a new cor-

1 poration, such corporation was being orga-
2 nized for purposes of being an enterprise
3 zone business), and

4 “(iii) during substantially all of the
5 taxpayer’s holding period for such stock,
6 such corporation qualified as an enterprise
7 zone business.

8 “(B) EXCLUSION OF STOCK FOR WHICH
9 DEDUCTION UNDER SECTION 1396 ALLOWED.—
10 The term ‘qualified zone stock’ shall not include
11 any stock the basis of which is reduced under
12 section 1396(c)(1).

13 “(C) REDEMPTIONS.—The term ‘qualified
14 zone stock’ shall not include any stock acquired
15 from a corporation which made a substantial
16 stock redemption or distribution (without a
17 bona fide business purpose therefor) in an at-
18 tempt to avoid the purposes of this section.

19 “(3) QUALIFIED ZONE BUSINESS PROPERTY.—

20 “(A) IN GENERAL.—The term ‘qualified
21 zone business property’ means tangible property
22 if—

23 “(i) such property was acquired by
24 the taxpayer by purchase (as defined in
25 section 179(d)(2)) after the date on which

1 the designation of the tax enterprise zone
2 took effect,

3 “(ii) the original use of such property
4 in a tax enterprise zone commences with
5 the taxpayer, and

6 “(iii) during substantially all of the
7 taxpayer’s holding period for such prop-
8 erty, substantially all of the use of such
9 property was in a tax enterprise zone and
10 in an enterprise zone business of the tax-
11 payer.

12 “(B) SPECIAL RULE FOR SUBSTANTIAL IM-
13 PROVEMENTS.—The requirements of clauses (i)
14 and (ii) of subparagraph (A) shall be treated as
15 satisfied with respect to—

16 “(i) property which is substantially
17 improved by the taxpayer, and

18 “(ii) any land on which such property
19 is located.

20 For purposes of the preceding sentence, prop-
21 erty shall be treated as substantially improved
22 by the taxpayer if, during any 24-month period
23 beginning after the date on which the designa-
24 tion of the tax enterprise zone took effect, addi-
25 tions to basis with respect to such property in

1 the hands of the taxpayer exceed the greater of
2 (i) an amount equal to the adjusted basis at the
3 beginning of such 24-month period in the hands
4 of the taxpayer, or (ii) \$5,000.

5 “(C) LIMITATION ON LAND.—The term
6 ‘qualified zone business property’ shall not in-
7 clude land which is not an integral part of a
8 qualified business (as defined in section
9 1397C(c)).

10 “(4) QUALIFIED ZONE PARTNERSHIP INTER-
11 EST.—The term ‘qualified zone partnership interest’
12 means any interest in a partnership if—

13 “(A) such interest is acquired by the tax-
14 payer from the partnership solely in exchange
15 for cash,

16 “(B) as of the time such interest was ac-
17 quired, such partnership was an enterprise zone
18 business (or, in the case of a new partnership,
19 such partnership was being organized for pur-
20 poses of being an enterprise zone business), and

21 “(C) during substantially all of the tax-
22 payer’s holding period for such interest, such
23 partnership qualified as an enterprise zone
24 business.

1 A rule similar to the rule of paragraph (2)(C) shall
2 apply for purposes of this paragraph.

3 “(5) TREATMENT OF SUBSEQUENT PUR-
4 CHASERS.—The term ‘qualified zone asset’ includes
5 any property which would be a qualified zone asset
6 but for paragraph (2)(A)(i), (3)(A)(ii), or (4)(A) in
7 the hands of the taxpayer if such property was a
8 qualified zone asset in the hands of any prior holder.

9 “(6) 10-YEAR SAFE HARBOR.—If any property
10 ceases to be a qualified zone asset by reason of para-
11 graph (2)(A)(iii), (3)(A)(iii), or (4)(C) after the 10-
12 year period beginning on the date the taxpayer ac-
13 quired such property, such property shall continue to
14 be treated as meeting the requirements of such
15 paragraph; except that the amount of gain to which
16 subsection (a) applies on any sale or exchange of
17 such property shall not exceed the amount which
18 would be qualified capital gain had such property
19 been sold on the date of such cessation.

20 “(7) TREATMENT OF ZONE TERMINATIONS.—
21 The termination of any designation of an area as a
22 tax enterprise zone shall be disregarded for purposes
23 of determining whether any property is a ~~qualified~~
24 zone asset.

1 “(c) OTHER DEFINITIONS AND SPECIAL RULES.—

2 For purposes of this section—

3 “(1) QUALIFIED CAPITAL GAIN.—Except as
4 otherwise provided in this subsection, the term
5 ‘qualified capital gain’ means any long-term capital
6 gain.

7 “(2) CERTAIN GAIN ON REAL PROPERTY NOT
8 QUALIFIED.—The term ‘qualified capital gain’ shall
9 not include any gain which would be treated as ordi-
10 nary income under section 1250 if section 1250 ap-
11 plied to all depreciation rather than the additional
12 depreciation.

13 “(3) GAIN ATTRIBUTABLE TO PERIODS AFTER
14 TERMINATION OF ZONE DESIGNATION NOT QUALI-
15 FIED.—The term ‘qualified capital gain’ shall not in-
16 clude any gain attributable to periods after the ter-
17 mination of any designation of an area as a tax en-
18 terprise zone.

19 “(d) TREATMENT OF PASS-THRU ENTITIES.—

20 “(1) SALES AND EXCHANGES.—Gain on the
21 sale or exchange of an interest in a pass-thru entity
22 held by the taxpayer (other than an interest in an
23 entity which was an enterprise zone business during
24 substantially all of the period the taxpayer held such
25 interest) for more than 5 years shall be treated as

1 gain described in subsection (a) to the extent such
2 gain is attributable to amounts which would be
3 qualified capital gain on qualified zone assets (deter-
4 mined as if such assets had been sold on the date
5 of the sale or exchange) held by such entity for more
6 than 5 years and throughout the period the taxpayer
7 held such interest. A rule similar to the rule of para-
8 graph (2)(C) shall apply for purposes of the preced-
9 ing sentence.

10 “(2) INCOME INCLUSIONS.—

11 “(A) IN GENERAL.—Any amount included
12 in income by reason of holding an interest in a
13 pass-thru entity (other than an entity which
14 was an enterprise zone business during substan-
15 tially all of the period the taxpayer held the in-
16 terest to which such inclusion relates) shall be
17 treated as gain described in subsection (a) if
18 such amount meets the requirements of sub-
19 paragraph (B).

20 “(B) REQUIREMENTS.—An amount meets
21 the requirements of this subparagraph if—

22 “(i) such amount is attributable to
23 qualified capital gain recognized on the
24 sale or exchange by the pass-thru entity of
25 property which is a qualified zone asset in

1 the hands of such entity and which was
2 held by such entity for the period required
3 under subsection (a), and

4 “(ii) such amount is includible in the
5 gross income of the taxpayer by reason of
6 the holding of an interest in such entity
7 which was held by the taxpayer on the date
8 on which such pass-thru entity acquired
9 such asset and at all times thereafter be-
10 fore the disposition of such asset by such
11 pass-thru entity.

12 “(C) LIMITATION BASED ON INTEREST
13 ORIGINALLY HELD BY TAXPAYER.—Subpara-
14 graph (A) shall not apply to any amount to the
15 extent such amount exceeds the amount to
16 which subparagraph (A) would have applied if
17 such amount were determined by reference to
18 the interest the taxpayer held in the pass-thru
19 entity on the date the qualified zone asset was
20 acquired.

21 “(3) PASS-THRU ENTITY.—For purposes of this
22 subsection, the term ‘pass-thru entity’ means—

23 “(A) any partnership,

24 “(B) any S corporation,

1 “(C) any regulated investment company,
2 and

3 “(D) any common trust fund.

4 “(e) SALES AND EXCHANGES OF INTERESTS IN
5 PARTNERSHIPS AND S CORPORATIONS WHICH ARE
6 QUALIFIED ZONE BUSINESSES.—In the case of the sale
7 or exchange of an interest in a partnership, or of stock
8 in an S corporation, which was an enterprise zone business
9 during substantially all of the period the taxpayer held
10 such interest or stock, the amount of qualified capital gain
11 shall be determined without regard to—

12 “(1) any intangible, and any land, which is not
13 an integral part of any qualified business (as defined
14 in section 1397C(b)), and

15 “(2) gain attributable to periods before the des-
16 ignation of an area as a tax enterprise zone.

17 “(f) CERTAIN TAX-FREE AND OTHER TRANSFERS.—
18 For purposes of this section—

19 “(1) IN GENERAL.—In the case of a transfer of
20 a qualified zone asset to which this subsection ap-
21 plies, the transferee shall be treated as—

22 “(A) having acquired such asset in the
23 same manner as the transferor, and

24 “(B) having held such asset during any
25 continuous period immediately preceding the

1 transfer during which it was held (or treated as
2 held under this subsection) by the transferor.

3 “(2) TRANSFERS TO WHICH SUBSECTION AP-
4 PLIES.—This subsection shall apply to any
5 transfer—

6 “(A) by gift,

7 “(B) at death, or

8 “(C) from a partnership to a partner
9 thereof of a qualified zone asset with respect to
10 which the requirements of subsection (d)(2) are
11 met at the time of the transfer (without regard
12 to the 5-year holding requirement).

13 “(3) CERTAIN RULES MADE APPLICABLE.—
14 Rules similar to the rules of section 1244(d)(2) shall
15 apply for purposes of this section.

16 “(g) CERTAIN BUSINESSES TREATED AS NOT
17 QUALIFIED BUSINESSES.—For purposes of this section
18 and section 1397A, the term ‘enterprise zone business’ has
19 the meaning given such term by section 1397C except
20 that, in applying section 1397C for such purposes, the
21 term ‘qualified business’ shall not include any trade or
22 business of producing property of a character subject to
23 the allowance for depletion under section 611.

1 **"SEC. 1397A. NONRECOGNITION OF GAIN FROM NEW ZONE**
2 **INVESTMENTS.**

3 “(a) **GENERAL RULE.**—At the election of an individ-
4 ual, qualified capital gain (within the meaning of section
5 1397) from the sale or exchange of a qualified zone asset
6 shall be recognized only to the extent that—

7 “(1) the amount realized from such sale or ex-
8 change, exceeds

9 “(2) the cost (not heretofore taken into account
10 under this subsection) of any qualified zone asset
11 purchased directly by the taxpayer during the rein-
12 vestment period.

13 “(b) **QUALIFIED ZONE ASSET.**—For purposes of this
14 section—

15 “(1) **IN GENERAL.**—The term ‘qualified zone
16 asset’ has the meaning given such term by section
17 1397.

18 “(2) **TIME FOR TESTING.**—

19 “(A) **SALES.**—In the case of a sale or ex-
20 change of property, the determination of wheth-
21 er such property is a qualified zone asset shall
22 be made as of the time of the sale or exchange.

23 “(B) **PURCHASES.**—In the case of a pur-
24 chase of property, the determination of whether
25 such property is a qualified zone asset shall be
26 made as of the time of such purchase.

1 “(c) OTHER DEFINITIONS.—For purposes of this
2 section—

3 “(1) REINVESTMENT PERIOD.—The term ‘rein-
4 vestment period’ means, with respect to any sale or
5 exchange, the 6-month period beginning on the date
6 of such sale or exchange.

7 “(2) PURCHASE.—The term ‘purchase’ has the
8 meaning given to such term by section 179(d)(2).

9 “(d) BUSINESS OR PROPERTY CEASES TO QUAL-
10 IFY.—

11 “(1) IN GENERAL.—If, during the 10-year pe-
12 riod beginning on the date any qualified zone re-
13 placement asset was purchased by the taxpayer,
14 such asset ceases to be a qualified zone asset, not-
15 withstanding any provision of this subtitle other
16 than paragraph (3), the taxpayer shall be treated as
17 disposing of such asset during the taxable year dur-
18 ing which such cessation occurs at its fair market
19 value as of the 1st day of such taxable year.

20 “(2) LIMITATION ON GAIN RECOGNIZED.—The
21 amount of gain recognized pursuant to paragraph
22 (1) with respect to any asset shall not exceed the
23 lesser of—

1 “(A) the amount of gain which was not
2 recognized under subsection (a) by the reason
3 of the purchase of such asset, or

4 “(B) the excess of the fair market value
5 referred to in paragraph (1) over the adjusted
6 basis of such asset.

7 “(3) CESSATION OF ENTERPRISE ZONE STATUS
8 NOT TO CAUSE RECAPTURE.—An asset shall not fail
9 to be treated as a qualified zone asset for purposes
10 of paragraph (1) solely by reason of the termination
11 of a tax enterprise zone designation.

12 “(4) QUALIFIED ZONE REPLACEMENT ASSET.—
13 For purposes of paragraph (1), the term ‘qualified
14 zone replacement asset’ means any qualified zone
15 asset the purchase of which resulted in the non-
16 recognition of gain under subsection (a) with respect
17 to any other property.

18 “(e) BASIS OF QUALIFIED ZONE REPLACEMENT
19 ASSET.—If gain from the sale or exchange of any property
20 is not recognized by reason of subsection (a), such gain
21 shall be applied to reduce (in the order acquired) the basis
22 of any qualified zone replacement asset (as defined in sub-
23 section (d)(4)) purchased during the reinvestment period.

24 “(f) COORDINATION WITH INSTALLMENT METHOD
25 REPORTING.—This section shall not apply to any gain

1 from any installment sale (as defined in section 453(b))
2 if section 453(a) applies to such sale.

3 “(g) STATUTE OF LIMITATIONS.—If any gain is real-
4 ized by the taxpayer on any sale or exchange to which
5 an election under this section applies, then—

6 “(1) the statutory period for the assessment of
7 any deficiency with respect to such gain shall not ex-
8 pire before the expiration of 3 years from the date
9 the Secretary is notified by the taxpayer (in such
10 manner as the Secretary may by regulations pre-
11 scribe) of—

12 “(A) the taxpayer’s cost of purchasing any
13 qualified zone replacement asset,

14 “(B) the taxpayer’s intention not to pur-
15 chase a qualified zone replacement asset within
16 the reinvestment period, or

17 “(C) a failure to make such purchase with-
18 in the reinvestment period, and

19 “(2) such deficiency may be assessed before the
20 expiration of such 3-year period notwithstanding the
21 provisions of any law or rule of law which would oth-
22 erwise prevent such assessment.

23 **“SEC. 1397B. ADDITIONAL INCENTIVES.**

24 “(a) INCREASE IN EXPENSING UNDER SECTION
25 179.—In the case of an enterprise zone business, section

1 179(b)(1) shall be applied by substituting '\$20,000' for
2 '\$10,000'.

3 "(b) ORDINARY LOSS TREATMENT FOR CERTAIN
4 PROPERTY.—

5 "(1) IN GENERAL.—Loss on any qualified zone
6 asset (as defined in section 1397(b)) held for more
7 than 2 years (5 years in the case of real property)
8 shall be treated as an ordinary loss.

9 "(2) REAL PROPERTY.—For purposes of para-
10 graph (1), the term 'real property' means any prop-
11 erty which is section 1250 property (as defined in
12 section 1250(c)).

13 "(3) SPECIAL RULES.—

14 "(A) CERTAIN RULES MADE APPLICA-
15 BLE.—For purposes of this subsection, rules
16 similar to the following rules shall apply:

17 "(i) Paragraphs (1), (2), and (3) of
18 section 1244(d).

19 "(ii) Subsections (b)(6), (c)(3), (d),
20 (e), and (f) of section 1397.

21 "(B) COORDINATION WITH SECTION
22 1231.—Losses treated as ordinary losses by rea-
23 son of this subsection shall not be taken into
24 account in applying section 1231.

1 **"SEC. 1397C. ENTERPRISE ZONE BUSINESS DEFINED.**

2 “(a) IN GENERAL.—For purposes of this subpart, the
3 term ‘enterprise zone business’ means—

4 “(1) any qualified business entity, and

5 “(2) any qualified proprietorship.

6 “(b) QUALIFIED BUSINESS ENTITY.—For purposes
7 of this section, the term ‘qualified business entity’ means,
8 with respect to any taxable year, any corporation or part-
9 nership if for such year—

10 “(1)(A) every trade or business of such entity
11 is the active conduct of a qualified business within
12 a tax enterprise zone, and

13 “(B) at least 80 percent of the total gross in-
14 come of such entity is derived from the active con-
15 duct of such business,

16 “(2) substantially all of the use of the tangible
17 property of such entity (whether owned or leased) is
18 within a tax enterprise zone,

19 “(3) substantially all of the intangible property
20 of such entity is used in, and exclusively related to,
21 the active conduct of any such business,

22 “(4) substantially all of the services performed
23 for such entity by its employees are performed in a
24 tax enterprise zone,

25 “(5) at least $\frac{1}{3}$ of its employees are residents
26 of a tax enterprise zone,

1 “(6) less than 5 percent of the average of the
2 aggregate unadjusted bases of the property of such
3 entity is attributable to collectibles (as defined in
4 section 408(m)(2)) other than collectibles that are
5 held primarily for sale to customers in the ordinary
6 course of such business, and

7 “(7) less than 5 percent of the average of the
8 aggregate unadjusted bases of the property of such
9 entity is attributable to nonqualified financial prop-
10 erty.

11 “(c) QUALIFIED PROPRIETORSHIP.—For purposes of
12 this section, the term ‘qualified proprietorship’ means,
13 with respect to any taxable year, any qualified business
14 carried on by an individual as a proprietorship if for such
15 year—

16 “(1) at least 80 percent of the total gross in-
17 come of such individual from such business is de-
18 rived from the active conduct of such business in a
19 tax enterprise zone,

20 “(2) substantially all of the use of the tangible
21 property of such individual in such business (wheth-
22 er owned or leased) is within a tax enterprise zone,

23 “(3) substantially all of the intangible property
24 of such business is used in, and exclusively related
25 to, the active conduct of such business,

1 “(4) substantially all of the services performed
2 for such individual in such business by employees of
3 such business are performed in a tax enterprise
4 zone,

5 “(5) at least $\frac{1}{3}$ of such employees are residents
6 of a tax enterprise zone,

7 “(6) less than 5 percent of the average of the
8 aggregate unadjusted bases of the property of such
9 individual which is used in such business is attrib-
10 utable to collectibles (as defined in section
11 408(m)(2)) other than collectibles that are held pri-
12 marily for sale to customers in the ordinary course
13 of such business, and

14 “(7) less than 5 percent of the average of the
15 aggregate unadjusted bases of the property of such
16 individual which is used in such business is attrib-
17 utable to nonqualified financial property.

18 For purposes of this subsection, the term ‘employee’ in-
19 cludes the proprietor.

20 “(d) QUALIFIED BUSINESS.—For purposes of this
21 section—

22 “(1) IN GENERAL.—Except as otherwise pro-
23 vided in this subsection, the term ‘qualified business’
24 means any trade or business.

1 “(2) RENTAL OF REAL PROPERTY.—The rental
2 to others of real property located in a tax enterprise
3 zone shall be treated as a qualified business if and
4 only if—

5 “(A) in the case of real property which is
6 not residential rental property (as defined in
7 section 168(e)(2)), the lessee is an enterprise
8 zone business, or

9 “(B) in the case of residential rental prop-
10 erty (as so defined)—

11 “(i) such property was originally
12 placed in service after the date the tax en-
13 terprise zone was designated, or

14 “(ii) such property is rehabilitated
15 after such date in a rehabilitation which
16 meets requirements based on the principles
17 of section 42(e)(3).

18 “(3) RENTAL OF TANGIBLE PERSONAL PROP-
19 PERTY.—The rental to others of tangible personal
20 property shall be treated as a qualified business if
21 and only if substantially all of the rental of such
22 property is by enterprise zone businesses or by resi-
23 dents of a tax enterprise zone.

24 “(4) TREATMENT OF BUSINESS HOLDING IN-
25 TANGIBLES.—The term ‘qualified business’ shall not

1 include any trade or business consisting predomi-
2 nantly of the development or holding of intangibles
3 for sale or license.

4 “(5) CERTAIN BUSINESSES EXCLUDED.—The
5 term ‘qualified business’ shall not include—

6 “(A) any trade or business consisting of
7 the operation of any facility described in section
8 144(c)(6)(B), and

9 “(B) any trade or business the principal
10 activity of which is farming (within the meaning
11 of subparagraphs (A) or (B) of section
12 2032A(e)(5)), but only if, as of the close of the
13 preceding taxable year, the sum of—

14 “(i) the aggregate unadjusted bases
15 (or, if greater, the fair market value) of
16 the assets owned by the taxpayer which are
17 used in such a trade or business, and

18 “(ii) the aggregate value of assets
19 leased by the taxpayer which are used in
20 such a trade or business,

21 exceeds \$500,000.

22 For purposes of subparagraph (B), rules similar to
23 the rules of section 1395(b) shall apply.

24 “(e) NONQUALIFIED FINANCIAL PROPERTY.—For
25 purposes of this section, the term ‘nonqualified financial

85

1 property' means debt, stock, partnership interests, op-
2 tions, futures contracts, forward contracts, warrants, no-
3 tional principal contracts, annuities, and other similar
4 property specified in regulations; except that such term
5 shall not include—

6 “(1) reasonable amounts of working capital
7 held in cash, cash equivalents, or debt instruments
8 with a term of 18 months or less, or

9 “(2) debt instruments 'described in section
10 1221(4).

11 **“Subpart C—Regulations**

 “Sec. 1397C. Regulations.

12 **“SEC. 1397C. REGULATIONS.**

13 “The Secretary shall prescribe such regulations as
14 may be necessary or appropriate to carry out the purposes
15 of this part, including—

16 “(1) regulations limiting the benefit of this part
17 in circumstances where such benefits, in combination
18 with benefits provided under other Federal pro-
19 grams, would result in an activity being 100 percent
20 or more subsidized by the Federal Government,

21 “(2) regulations preventing abuse of the provi-
22 sions of this part, and

23 “(3) regulations dealing with inadvertent fail-
24 ures of entities to be qualified zone businesses.”.

1 (b) CLERICAL AMENDMENT.—The table of sub-
2 chapters for chapter 1 of such Code is amended by insert-
3 ing after the item relating to subchapter T the following
4 new item:

“Subchapter U. Designation and treatment of tax enterprise
zones.”.

5 **SEC. 412. TECHNICAL AND CONFORMING AMENDMENTS.**

6 (a) ENTERPRISE ZONE EMPLOYMENT CREDIT PART
7 OF GENERAL BUSINESS CREDIT.—

8 (1) Subsection (b) of section 38 of the Internal
9 Revenue Code of 1986 (relating to current year
10 business credit) is amended by striking “plus” at the
11 end of paragraph (6), by striking the period at the
12 end of paragraph (7) and inserting “, plus”, and by
13 adding at the end the following new paragraph:

14 “(8) the enterprise zone employment credit de-
15 termined under section 1394(a).”.

16 (2) Subsection (d) of section 39 of such Code
17 is amended by adding at the end thereof the follow-
18 ing new paragraph:

19 “(3) NO CARRYBACK OF SECTION 1394 CREDIT
20 BEFORE ENACTMENT.—No portion of the unused
21 business credit for any taxable year which is attrib-
22 utable to the enterprise zone employment credit de-
23 termined under section 1394 may be carried to a

1 taxable year ending before the date of the enactment
2 of section 1394.”.

3 (b) NONITEMIZERS ALLOWED DEDUCTION FOR EN-
4 TERPRISE ZONE STOCK.—Subsection (a) of section 62 of
5 such Code is amended by adding at the end thereof the
6 following new paragraph:

7 “(14) ENTERPRISE ZONE STOCK.—The deduc-
8 tion allowed by section 1396.”.

9 (c) DENIAL OF DEDUCTION FOR PORTION OF WAGES
10 EQUAL TO ENTERPRISE ZONE EMPLOYMENT CREDIT.—

11 (1) Subsection (a) of section 280C of such Code
12 (relating to rule for targeted jobs credit) is
13 amended—

14 (A) by striking “the amount of the credit
15 determined for the taxable year under section
16 51(a)” and inserting “the sum of the credits
17 determined for the taxable year under sections
18 51(a) and 1394(a)”, and

19 (B) by striking “TARGETED JOBS CRED-
20 IT” in the subsection heading and inserting
21 “EMPLOYMENT CREDITS”.

22 (2) Subsection (c) of section 196 of such Code
23 (relating to deduction for certain unused business
24 credits) is amended by striking “and” at the end of
25 paragraph (4), by striking the period at the end of

1 paragraph (5) and inserting “, and”, and by adding
2 at the end the following new paragraph:

3 “(6) the enterprise zone employment credit de-
4 termined under section 1394(a).”.

5 (d) OTHER AMENDMENTS.—

6 (1)(A) Section 172(d)(2) of such Code (relating
7 to modifications with respect to net operating loss
8 deduction) is amended to read as follows:

9 “(2) CAPITAL GAINS AND LOSSES OF TAX-
10 PAYERS OTHER THAN CORPORATIONS.—In the case
11 of a taxpayer other than a corporation—

12 “(A) the amount deductible on account of
13 losses from sales or exchanges of capital assets
14 shall not exceed the amount includable on ac-
15 count of gains from sales or exchanges of cap-
16 ital assets; and

17 “(B) the exclusion provided by section
18 1397 shall not be allowed.”.

19 (B) Subparagraph (B) of section 172(d)(4) of
20 such Code is amended by inserting “, (2)(B),” after
21 “paragraph (1)”.

22 (2) Subsection (c) of section 381 of such Code
23 (relating to carryovers in certain corporate acquisi-
24 tions) is amended by adding at the end the following
25 new paragraph:

1 “(26) ENTERPRISE ZONE PROVISIONS.—The
2 acquiring corporation shall take into account (to the
3 extent proper to carry out the purposes of this sec-
4 tion and subchapter U, and under such regulations
5 as may be prescribed by the Secretary) the items re-
6 quired to be taken into account for purposes of sub-
7 chapter U in respect of the distributor or transferor
8 corporation.”.

9 (3) Paragraph (4) of section 642(c) of such
10 Code is amended to read as follows:

11 “(4) ADJUSTMENTS.—To the extent that the
12 amount otherwise allowable as a deduction under
13 this subsection consists of gain described in section
14 1397(a), proper adjustment shall be made for any
15 exclusion allowable to the estate or trust under sec-
16 tion 1397. In the case of a trust, the deduction al-
17 lowed by this subsection shall be subject to section
18 681 (relating to unrelated business income).”.

19 (4) Paragraph (3) of section 643(a) of such
20 Code is amended by adding at the end thereof the
21 following new sentence: “The exclusion under section
22 1397 shall not be taken into account.”.

23 (5) Paragraph (4) of section 691(c) of such
24 Code is amended by striking “1201, and 1211” and
25 inserting “1201, 1397, and 1211”.

1 (6) The second sentence of paragraph (2) of
2 section 871(a) of such Code is amended by inserting
3 “such gains and losses shall be determined without
4 regard to section 1397 and” after “except that”.

5 (7) Paragraph (1) of section 1371(d) of such
6 Code (relating to coordination with investment credit
7 recapture) is amended by inserting before the period
8 at the end the following “and for purposes of section
9 1394(d)(3)”.

10 (8) Subsection (a) of section 1016 of such Code
11 (relating to adjustments to basis) is amended by
12 striking “and” at the end of paragraph (23), by
13 striking the period at the end of paragraph (24) and
14 inserting a semicolon, and by adding at the end
15 thereof the following new paragraphs:

16 “(25) in the case of stock with respect to which
17 a deduction was allowed under section 1396(a), to
18 the extent provided in section 1396(e); and

19 “(26) in the case of property the acquisition of
20 which resulted under section 1397A in the non-
21 recognition of any part of the gain realized on the
22 sale or exchange of other property, to the extent pro-
23 vided in section 1397A(e).”.

24 (9) Section 1223 of such Code (relating to hold-
25 ing period of property) is amended by redesignating

1 paragraph (15) as paragraph (16) and by inserting
2 after paragraph (14) the following new paragraph:

3 “(15) In determining the period for which the
4 taxpayer has held property the acquisition of which
5 resulted under section 1397A in the nonrecognition
6 of any part of the gain realized on the sale or ex-
7 change of any qualified zone asset (as defined in sec-
8 tion 1397A(b)), there shall be included the period
9 for which such asset had been held as of the date
10 of such sale or exchange.”.

11 **SEC. 413. EFFECTIVE DATE.**

12 (a) GENERAL RULE.—The amendments made by this
13 subtitle shall take effect on the date of the enactment of
14 this Act.

15 (b) REQUIREMENT FOR RULES.—Not later than the
16 date 4 months after the date of the enactment of this Act,
17 the appropriate Secretaries shall issue rules—

18 (1) establishing the procedures for nominating
19 areas for designation as tax enterprise zones,

20 (2) establishing a method for comparing the
21 factors listed in section 1392(d) of the Internal Rev-
22 enue Code of 1986 (as added by this part),

23 (3) establishing recordkeeping requirements
24 necessary or appropriate to assist the studies re-
25 quired by subtitle E, and

(4) providing that State and local governments shall have at least 30 days after such rules are published to file applications for nominated areas before such applications are evaluated and compared and any area designated as a tax enterprise zone.

Subtitle B—Redevelopment Bonds for Tax Enterprise Zones

SEC. 421. SPECIAL RULES FOR REDEVELOPMENT BONDS PROVIDING FINANCING FOR TAX ENTER- PRISE ZONES.

(a) IN GENERAL.—Subsection (c) of section 144 of the Internal Revenue Code of 1986 (relating to qualified redevelopment bonds) is amended by adding at the end thereof the following new paragraph:

“(9) SPECIAL RULES FOR TAX ENTERPRISE ZONES.—For purposes of this subsection, in the case of bonds issued during the 60-month period beginning on the date a tax enterprise zone is designated—

“(A) TREATMENT AS DESIGNATED BLIGHTED AREA.—Such tax enterprise zone shall be treated as a designated blighted area during such 60-month period (or, if shorter, the period such designation is in effect). Any area designated by reason of the preceding sentence

1 shall not be taken into account in applying
2 paragraph (4)(C).

3 “(B) SECURITY FOR BONDS.—The require-
4 ments of paragraph (2)(B) shall be treated as
5 met with respect to a financed area that is
6 within a tax enterprise zone if the general pur-
7 pose governmental unit guarantees the payment
8 of principal and interest on the issue either di-
9 rectly or through insurance, a letter of credit,
10 or a similar agreement but only if the cost
11 thereof is financed other than with proceeds of
12 any tax-exempt private activity bond or earn-
13 ings on such proceeds.

14 “(C) EXPANSION OF REDEVELOPMENT
15 PURPOSES.—

16 “(i) IN GENERAL.—The term ‘redevel-
17 opment purposes’ includes the making of
18 loans to any enterprise zone business (as
19 defined in section 1397B) for—

20 “(I) the acquisition of land with-
21 in the tax enterprise zone for use in
22 such business, or

23 “(II) the acquisition, construc-
24 tion, reconstruction, or improvement
25 by such business of land, or property

1 of a character subject to the allowance
2 for depreciation, for use in such busi-
3 ness.

4 “(ii) \$2,500,000 LIMITATION.—Clause
5 (i) shall apply to loans made to any enter-
6 prise zone business only if the aggregate
7 principal amount of such loans (whether or
8 not financed by the same issue) does not
9 exceed \$2,500,000. For purposes of the
10 preceding sentence, all persons treated as a
11 single employer under subsection (a) or (b)
12 of section 52 shall be treated as 1 person.

13 “(iii) LOANS MUST BE MADE WITHIN
14 18 MONTHS AFTER BONDS ISSUED; REPAY-
15 MENTS MUST BE USED FOR REDEMP-
16 TIONS.—Clause (i) shall apply only to
17 loans—

18 “(I) made during the 18-month
19 period beginning on the date of issu-
20 ance of the issue financing such loan,

21 “(II) repayments of principal on
22 which are used not later than the
23 close of the 1st semiannual period be-
24 ginning after the date the repayment

1 is received to redeem bonds which are
2 part of such issue, and

3 “(III) the effective rate of inter-
4 est on which does not exceed the yield
5 on the issue by more than 0.125 per-
6 centage points.

7 In determining the effective rate of interest
8 for purposes of subelause (III), there shall
9 be taken into account all fees, charges, and
10 other amounts (other than amounts for
11 any credit report) borne by the borrower
12 which are attributable to the loan or the
13 bond issue.

14 “(iv) HOUSING LOANS EXCLUDED.—
15 Clause (i) shall not apply to any loan to be
16 used directly or indirectly to provide resi-
17 dential real property.

18 “(v) COORDINATION WITH RESTRIC-
19 TIONS ON USE OF PROCEEDS.—Paragraphs
20 (6) and (8) shall apply notwithstanding
21 clause (i); except that in applying para-
22 graph (6), subsection (a)(8) shall be treat-
23 ed as not including a reference to a facility
24 the primary purpose of which is retail food
25 services.

1 “(D) ISSUER TO DESIGNATE AMOUNT OF
2 ISSUE TO BE USED FOR LOANS.—Subparagraph
3 (C) shall not apply with respect to any issue
4 unless the issuer designates before the date of
5 issuance the amount of the proceeds of such
6 issue which is to be used for loans to which
7 subparagraph (C)(i) applies. If such amount ex-
8 ceeds the principal amount of loans to which
9 subparagraph (C)(i) applies, an amount of pro-
10 ceeds equal to such excess shall be used not
11 later than the close of the 1st semiannual pe-
12 riod beginning after the close of the 18-month
13 period referred to in subparagraph (C)(iii) to
14 redeem bonds which are part of such issue.

15 “(E) DE MINIMIS REDEMPTIONS NOT RE-
16 QUIRED.—Subparagraphs (C)(iii) and (D) shall
17 not be construed to require amounts of less
18 than \$250,000 to be used to redeem bonds. The
19 Secretary may by regulation treat related issues
20 as 1 issue for purposes of the preceding sen-
21 tence.

22 “(F) PENALTY.—

23 “(i) IN GENERAL.—In the case of
24 property with respect to which financing
25 was provided under this paragraph, if at

any time during the 10-period beginning
on the date such financing was provided—

“(I) such property ceases to be in
use in an enterprise zone business (as
defined in section 1397B), or

“(II) substantially all of the use
of such property ceases to be in a tax
enterprise zone,

there is hereby imposed on the trade or
business to which such financing was pro-
vided a penalty equal to 1.25 percent of so
much of the face amount of all financing
provided (whether or not from the same
issue and whether or not such issue is out-
standing) before such cessation to the
trade or business using such property.

“(ii) NO PENALTY BY REASON OF
ZONE TERMINATION.—No penalty shall be
imposed under clause (i) solely by reason
of the termination or revocation of a tax
enterprise zone designation.

“(iii) EXCEPTION FOR BANK-
RUPTCY.—Clause (i) shall not apply to any
cessation resulting from bankruptcy.”.

1 (b) VOLUME CAP ONLY CHARGED WITH 50 PER-
2 CENT OF TAX ENTERPRISE ZONE REDEVELOPMENT
3 BONDS.—Subsection (g) of section 146 of such Code is
4 amended by striking “and” at the end of paragraph (3),
5 by striking the period at the end of paragraph (4) and
6 inserting “, and”, and by adding at the end thereof the
7 following new paragraph:

8 “(5) 50 percent of any qualified redevelopment
9 bond issued—

10 “(A) as part of an issue 95 percent or
11 more of the net proceeds of which are to be
12 used for 1 or more redevelopment purposes (as
13 defined in section 144(c)) in a tax enterprise
14 zone, and

15 “(B) during the 60-month period begin-
16 ning on the date of the designation of such
17 zone.”.

18 (c) PENALTIES FOR LOANS MADE TO BUSINESSES
19 THAT CEASE TO BE ENTERPRISE ZONE BUSINESSES,
20 ETC.—Subsection (b) of section 150 of such Code is
21 amended by adding at the end thereof the following new
22 paragraph:

23 “(6) ENTERPRISE ZONE REDEVELOPMENT
24 BONDS.—In the case of any financing provided by

1 an issue the interest on which is exempt from tax by
2 reason of section 144(c)(9)—

3 “(A) IN GENERAL.—No deduction shall be
4 allowed under this chapter for interest on such
5 financing which accrues during the period be-
6 ginning on the first day of the calendar year
7 which includes the date on which—

8 “(i) the trade or business to which the
9 financing was provided ceases to be an en-
10 terprise zone business (as defined in sec-
11 tion 1397B), or

12 “(ii) substantially all of the use of the
13 property (determined in accordance with
14 subchapter U) with respect to which the fi-
15 nancing was provided ceases to be in a tax
16 enterprise zone.

17 The preceding sentence shall not apply solely by
18 reason of the termination or revocation of a tax
19 enterprise zone designation.

20 “(B) EXCEPTION FOR BANKRUPTCY.—This
21 paragraph shall not apply to any cessation re-
22 sulting from bankruptcy.”.

1 Subtitle C—Credit for Contribu-
2 tions to Certain Community De-
3 velopment Corporations

4 SEC. 431. CREDIT FOR CONTRIBUTIONS TO CERTAIN COM-
5 MUNITY DEVELOPMENT CORPORATIONS.

6 (a) IN GENERAL.—For purposes of section 38 of the
7 Internal Revenue Code of 1986, the current year business
8 credit shall include the credit determined under this sec-
9 tion.

10 (b) DETERMINATION OF CREDIT.—The credit deter-
11 mined under this section for each taxable year in the credit
12 period with respect to any qualified CDC contribution
13 made by the taxpayer is an amount equal to 5 percent
14 of such contribution.

15 (c) CREDIT PERIOD.—For purposes of this section,
16 the credit period with respect to any qualified CDC con-
17 tribution is the period of 10 taxable years beginning with
18 the taxable year during which such contribution was made.

19 (d) QUALIFIED CDC CONTRIBUTION.—For purposes
20 of this section—

21 (1) IN GENERAL.—The term “qualified CDC
22 contribution” means any transfer of cash—

23 (A) which is made to a selected community
24 development corporation during the 5-year pe-

1 riod beginning on the date such corporation was
2 selected for purposes of this section,

3 (B) the amount of which is available for
4 use by such corporation for at least 10 years,

5 (C) which is to be used by such corpora-
6 tion for qualified low-income assistance within
7 its operational area, and

8 (D) which is designated by such corpora-
9 tion for purposes of this section.

10 (2) LIMITATIONS ON AMOUNT DESIGNATED.—

11 The aggregate amount of contributions to a selected
12 community development corporation which may be
13 designated by such corporation shall not exceed
14 \$2,000,000.

15 (e) SELECTED COMMUNITY DEVELOPMENT COR-
16 PORATIONS.—

17 (1) IN GENERAL.—For purposes of this section,
18 the term “selected community development corpora-
19 tion” means any corporation—

20 (A) which is described in section 501(c)(3)
21 of such Code and exempt from tax under sec-
22 tion 501(a) of such Code,

23 (B) the principal purposes of which include
24 promoting employment of, and business oppor-

1 tunities for, low-income individuals who are
2 residents of the operational area, and

3 (C) which is selected by the Secretary of
4 Housing and Urban Development for purposes
5 of this section.

6 (2) ONLY 10 CORPORATIONS MAY BE SE-
7 LECTED.—

8 (A) IN GENERAL.—The Secretary of Hous-
9 ing and Urban Development may select 10 cor-
10 porations for purposes of this section, subject to
11 the availability of eligible corporations. Such se-
12 lections may be made only before January 1,
13 1995. At least 4 of the operational areas of the
14 corporations selected must be rural areas (as
15 defined by section 1393(6) of such Code).

16 (B) PRIORITY OF DESIGNATIONS.—In se-
17 lecting corporations for purposes of this section,
18 such Secretary shall give priority to corpora-
19 tions with a demonstrated record of perform-
20 ance in administering community development
21 programs which target at least 75 percent of
22 the jobs emanating from their investment funds
23 to low income or unemployed individuals.

24 (3) OPERATIONAL AREAS MUST HAVE CERTAIN
25 CHARACTERISTICS.—A corporation may be selected

1 for purposes of this section only if its operational
2 area meets the following criteria:

3 (A) The area meets the size requirements
4 under paragraph (1)(C) or (2)(C) of section
5 1391(b) which would apply if such area were to
6 be designated as a tax enterprise zone.

7 (B) The unemployment rate (as deter-
8 mined by the appropriate available data) is not
9 less than the national unemployment rate.

10 (C) The median family income of residents
11 of such area does not exceed 80 percent of the
12 median gross income of residents of the juris-
13 diction of the local government which includes
14 such area.

15 (f) QUALIFIED LOW-INCOME ASSISTANCE.—For pur-
16 poses of this section, the term “qualified low-income as-
17 sistance” means assistance—

18 (1) which is designed to provide employment of,
19 and business opportunities for, low-income individ-
20 uals who are residents of the operational area of the
21 community development corporation, and

22 (2) which is approved by the Secretary of Hous-
23 ing and Urban Development.

1 **Subtitle D—Indian Employment** 2 **and Investment**

3 **SEC. 441. INVESTMENT TAX CREDIT FOR PROPERTY ON IN-** 4 **DIAN RESERVATIONS.**

5 (a) ALLOWANCE OF INDIAN RESERVATION CRED-
 6 IT.—Section 46 of the Internal Revenue Code of 1986 (re-
 7 lating to investment credits) is amended by striking “and”
 8 at the end of paragraph (2), by striking the period at the
 9 end of paragraph (3) and inserting “, and”, and by adding
 10 after paragraph (3) the following new paragraph:

11 “(4) the Indian reservation credit.”.

12 (b) AMOUNT OF INDIAN RESERVATION CREDIT.—

13 (1) IN GENERAL.—Section 48 of such Code (re-
 14 lating to the energy credit and the reforestation
 15 credit) is amended by adding after subsection (b)
 16 the following new subsection:

17 “(c) INDIAN RESERVATION CREDIT.—

18 “(1) IN GENERAL.—For purposes of section 46,
 19 the Indian reservation credit for any taxable year is
 20 the Indian reservation percentage of the qualified in-
 21 vestment in qualified Indian reservation property
 22 placed in service during such taxable year, deter-
 23 mined in accordance with the following table:

“In the case of qualified	
Indian reservation property	The Indian reservation
which is:	percentage is:
Reservation personal property	10
New reservation construction property	15

Reservation infrastructure investment 15.

1 “(2) QUALIFIED INVESTMENT IN QUALIFIED
2 INDIAN RESERVATION PROPERTY DEFINED.—For
3 purposes of this subpart—

4 “(A) IN GENERAL.—The term ‘qualified
5 Indian reservation property’ means property—

6 “(i) which is—

7 “(I) reservation personal prop-
8 erty,

9 “(II) new reservation construc-
10 tion property, or

11 “(III) reservation infrastructure
12 investment, and

13 “(ii) not acquired (directly or indi-
14 rectly) by the taxpayer from a person who
15 is related to the taxpayer (within the
16 meaning of section 465(b)(3)(C)).

17 The term ‘qualified Indian reservation property’
18 does not include any property (or any portion
19 thereof) placed in service for purposes of con-
20 ducting or housing class I, II, or III gaming (as
21 defined in section 4 of the Indian Regulatory
22 Act (25 U.S.C. 2703)).

23 “(B) QUALIFIED INVESTMENT.—The term
24 ‘qualified investment’ means—

1 “(i) in the case of reservation infra-
2 structure investment, the amount expended
3 by the taxpayer for the acquisition or con-
4 struction of the reservation infrastructure
5 investment; and

6 “(ii) in the case of all other qualified
7 Indian reservation property, the tax-
8 payer’s basis for such property.

9 “(C) RESERVATION PERSONAL PROP-
10 PERTY.—The term ‘reservation personal prop-
11 erty’ means qualified personal property which is
12 used by the taxpayer predominantly in the ac-
13 tive conduct of a trade or business within an
14 Indian reservation. Property shall not be treat-
15 ed as ‘reservation personal property’ if it is
16 used or located outside the Indian reservation
17 on a regular basis.

18 “(D) QUALIFIED PERSONAL PROPERTY.—
19 The term ‘qualified personal property’ means
20 property—

21 “(i) for which depreciation is allow-
22 able under section 168,

23 “(ii) which is not—

24 “(I) nonresidential real property,

1 “(II) residential rental property,

2 or

3 “(III) real property which is not
4 described in (I) or (II) and which has
5 a class life of more than 12.5 years.

6 For purposes of this subparagraph, the terms
7 ‘nonresidential real property’, ‘residential rental
8 property’, and ‘class life’ have the respective
9 meanings given such terms by section 168.

10 “(E) NEW RESERVATION CONSTRUCTION
11 PROPERTY.—The term ‘new reservation con-
12 struction property’ means qualified real
13 property—

14 “(i) which is located in an Indian res-
15 ervation,

16 “(ii) which is used by the taxpayer
17 predominantly in the active conduct of a
18 trade or business within an Indian reserva-
19 tion, and

20 “(iii) which is originally placed in
21 service by the taxpayer.

22 “(F) QUALIFIED REAL PROPERTY.—The
23 term ‘qualified real property’ means property
24 for which depreciation is allowable under sec-

1 tion 168 and which is described in clause (I),
2 (II), or (III) of subparagraph (D)(ii).

3 “(G) RESERVATION INFRASTRUCTURE IN-
4 VESTMENT.—

5 “(i) IN GENERAL.—The term ‘reserva-
6 tion infrastructure investment’ means
7 qualified personal property or qualified real
8 property which—

9 “(I) benefits the tribal infrastruc-
10 ture,

11 “(II) is available to the general
12 public, and

13 “(III) is placed in service in con-
14 nection with the taxpayer’s active con-
15 duct of a trade or business within an
16 Indian reservation.

17 “(ii) PROPERTY MAY BE LOCATED
18 OUTSIDE THE RESERVATION.—Qualified
19 personal property and qualified real prop-
20 erty used or located outside an Indian res-
21 ervation shall be reservation infrastructure
22 investment only if its purpose is to connect
23 to existing tribal infrastructure in the res-
24 ervation, and shall include, but not be lim-
25 ited to, roads, power lines, water systems,

1 railroad spurs, and communications facili-
2 ties.

3 “(H) COORDINATION WITH OTHER CRED-
4 ITS.—The term ‘qualified Indian reservation
5 property’ shall not include any property with re-
6 spect to which the energy credit or the rehabili-
7 tation credit is allowed.

8 “(3) REAL ESTATE RENTALS.—For purposes of
9 this section, the rental to others of real property lo-
10 cated within an Indian reservation shall be treated
11 as the active conduct of a trade or business in an
12 Indian reservation.

13 “(4) INDIAN RESERVATION DEFINED.—For
14 purposes of this subpart, the term ‘Indian reserva-
15 tion’ means a reservation, as defined in—

16 “(A) section 3(d) of the Indian Financing
17 Act of 1974 (25 U.S.C. 1452(d)), or

18 “(B) section 4(10) of the Indian Child
19 Welfare Act of 1978 (25 U.S.C. 1903(10)).

20 “(5) LIMITATION BASED ON UNEMPLOY-
21 MENT.—

22 “(A) GENERAL RULE.—The Indian res-
23 ervation credit allowed under section 46 for any
24 taxable year shall equal—

1 “(i) if the Indian unemployment rate
2 on the applicable Indian reservation for
3 which the credit is sought exceeds 300 per-
4 cent of the national average unemployment
5 rate at any time during the calendar year
6 in which the property is placed in service
7 or during the immediately preceding 2 cal-
8 endar years, 100 percent of such credit,

9 “(ii) if such Indian unemployment
10 rate exceeds 150 percent but not 300 per-
11 cent, 50 percent of such credit, and

12 “(iii) if such Indian unemployment
13 rate does not exceed 150 percent, 0 per-
14 cent of such credit.

15 “(B) SPECIAL RULE FOR LARGE
16 PROJECTS.—In the case of a qualified Indian
17 reservation property which has (or is a compo-
18 nent of a project which has) a projected con-
19 struction period of more than 2 years or a cost
20 of more than \$1,000,000, subparagraph (A)
21 shall apply by substituting ‘during the earlier of
22 the calendar year in which the taxpayer enters
23 into a binding agreement to make a qualified
24 investment or the first calendar year in which
25 the taxpayer has expended at least 10 percent

1 of the taxpayer's qualified investment, or the
2 preceding calendar year' for 'during the cal-
3 endar year in which the property is placed in
4 service or during the immediately preceding 2
5 calendar years'.

6 “(C) DETERMINATION OF INDIAN UNEM-
7 PLOYMENT.—For purposes of this paragraph,
8 with respect to any Indian reservation, the In-
9 dian unemployment rate shall be based upon
10 Indians unemployed and able to work, and shall
11 be certified by the Secretary of the Interior.

12 “(6) COORDINATION WITH NONREVENUE
13 LAWS.—Any reference in this subsection to a provi-
14 sion not contained in this title shall be treated for
15 purposes of this subsection as a reference to such
16 provision as in effect on the date of the enactment
17 of this paragraph.”.

18 (2) LODGING TO QUALIFY.—Paragraph (2) of
19 section 50(b) of such Code (relating to property used
20 for lodging) is amended—

21 (A) by striking “and” at the end of sub-
22 paragraph (C),

23 (B) by striking the period at the end of
24 subparagraph (D) and inserting “; and” and

1 (C) by adding at the end thereof the fol-
2 lowing subparagraph:

3 “(E) new reservation construction prop-
4 erty.”.

5 (c) RECAPTURE.—Subsection (a) of section 50 of
6 such Code (relating to recapture in case of dispositions,
7 etc.), is amended by adding at the end thereof the follow-
8 ing new paragraph:

9 “(6) SPECIAL RULES FOR INDIAN RESERVATION
10 PROPERTY.—

11 “(A) IN GENERAL.—If, during any taxable
12 year, property with respect to which the tax-
13 payer claimed an Indian reservation credit—

14 “(i) is disposed of, or

15 “(ii) in the case of reservation per-
16 sonal property—

17 “(I) otherwise ceases to be in-
18 vestment credit property with respect
19 to the taxpayer, or

20 “(II) is removed from the Indian
21 reservation, converted or otherwise
22 ceases to be Indian reservation prop-
23 erty,

1 the tax under this chapter for such taxable year
2 shall be increased by the amount described in
3 subparagraph (B).

4 “(B) AMOUNT OF INCREASE.—The in-
5 crease in tax under subparagraph (A) shall
6 equal the aggregate decrease in the credits al-
7 lowed under section 38 by reason of section
8 48(c) for all prior taxable years which would
9 have resulted had the qualified investment
10 taken into account with respect to the property
11 been limited to an amount which bears the
12 same ratio to the qualified investment with re-
13 spect to such property as the period such prop-
14 erty was held by the taxpayer bears to the ap-
15 plicable recovery period under section 168(g).

16 “(C) COORDINATION WITH OTHER RECAP-
17 TURE PROVISIONS.—In the case of property to
18 which this paragraph applies, paragraph (1)
19 shall not apply and the rules of paragraphs (3),
20 (4), and (5) shall apply.”.

21 (d) BASIS ADJUSTMENT TO REFLECT INVESTMENT
22 CREDIT.—Paragraph (3) of section 50(e) of such Code
23 (relating to basis adjustment to investment credit prop-
24 erty) is amended by striking “energy credit or reforest-
25 ation credit” and inserting “energy credit, reforestation

1 credit or Indian reservation credit other than with respect
2 to any expenditure for new reservation construction prop-
3 erty”.

4 (e) CERTAIN GOVERNMENTAL USE PROPERTY TO
5 QUALIFY.—Paragraph (4) of section 50(b) of such Code
6 (relating to property used by governmental units or for-
7 eign persons or entities) is amended by redesignating sub-
8 paragraphs (D) and (E) as subparagraphs (E) and (F),
9 respectively, and inserting after subparagraph (C) the fol-
10 lowing new subparagraph:

11 “(D) EXCEPTION FOR RESERVATION IN-
12 FRASTRUCTURE INVESTMENT.—This paragraph
13 shall not apply for purposes of determining the
14 Indian reservation credit with respect to res-
15 ervation infrastructure investment.”.

16 (f) APPLICATION OF AT-RISK RULES.—Subpara-
17 graph (C) of section 49(a)(1) of such Code is amended
18 by striking “and” at the end of clause (ii), by striking
19 the period at the end of clause (iii) and inserting “, and”,
20 and by adding at the end the following new clause:

21 “(iv) the qualified investment in quali-
22 fied Indian reservation property.”.

23 (g) CLERICAL AMENDMENTS.—

(1) The caption of section 48 of such Code is amended by deleting the period at the end thereof and adding “; indian reservation credit.”

(2) The table of sections for subpart E of part IV of subchapter A of chapter 1 of such Code is amended by striking out the item relating to section 48 and inserting the following:

“Sec. 48. Energy credit; reforestation credit; Indian reservation credit.”.

(h) **EFFECTIVE DATE.**—The amendments made by this section shall apply to property placed in service after December 31, 1993.

SEC. 442. INDIAN EMPLOYMENT CREDIT.

(a) **ALLOWANCE OF INDIAN EMPLOYMENT CREDIT.**—Section 38(b) of the Internal Revenue Code of 1986 (relating to general business credits), as amended by section 412, is amended by striking “plus” at the end of paragraph (7), by striking the period at the end of paragraph (8) and inserting “, plus”, and by adding after paragraph (8) the following new paragraph:

“(9) the Indian employment credit as determined under section 45(a).”.

(b) **AMOUNT OF INDIAN EMPLOYMENT CREDIT.**—Subpart D of Part IV of subchapter A of chapter 1 of such Code (relating to business related credits) is amended by adding at the end thereof the following new section:

1 **"SEC. 45. INDIAN EMPLOYMENT CREDIT.**

2 **"(a) AMOUNT OF CREDIT.—**

3 **"(1) IN GENERAL.—**For purposes of section 38,
4 the amount of the Indian employment credit deter-
5 mined under this section with respect to any em-
6 ployer for any taxable year is 10 percent (30 percent
7 in the case of an employer with at least 85 percent
8 Indian employees throughout the taxable year) of
9 the sum of—

10 **"(A)** the qualified wages paid or incurred
11 during such taxable year, plus

12 **"(B)** qualified employee health insurance
13 costs paid or incurred during such taxable year.

14 In no event shall the amount of the Indian employ-
15 ment credit for any taxable year exceed the credit
16 limitation amount determined under subsection (e)
17 for such taxable year.

18 **"(2) INDIAN EMPLOYEE.—**For purposes of
19 paragraph (1), the term 'Indian employee' means an
20 employee who is an enrolled member of an Indian
21 tribe or the spouse of such a member.

22 **"(b) QUALIFIED WAGES; QUALIFIED EMPLOYEE**
23 **HEALTH INSURANCE COSTS.—**For purposes of this
24 section—

25 **"(1) QUALIFIED WAGES.—**

1 “(A) IN GENERAL.—The term ‘qualified
2 wages’ means any wages paid or incurred by an
3 employer for services performed by an employee
4 while such employee is a qualified employee.

5 “(B) COORDINATION WITH TARGETED
6 JOBS CREDIT.—The term ‘qualified wages’ shall
7 not include wages attributable to service ren-
8 dered during the 1-year period beginning with
9 the day the individual begins work for the em-
10 ployer if any portion of such wages is taken
11 into account in determining the credit under
12 section 51.

13 “(2) QUALIFIED EMPLOYEE HEALTH INSUR-
14 ANCE COSTS.—

15 “(A) IN GENERAL.—The term ‘qualified
16 employee health insurance costs’ means any
17 amount paid or incurred by an employer for
18 health insurance to the extent such amount is
19 attributable to coverage provided to any em-
20 ployee while such employee is a qualified em-
21 ployee.

22 “(B) EXCEPTION FOR AMOUNTS PAID
23 UNDER SALARY REDUCTION ARRANGEMENTS.—
24 No amount paid or incurred for health insur-
25 ance pursuant to a salary reduction arrange-

1 ment shall be taken into account under sub-
2 paragraph (A).

3 “(c) QUALIFIED EMPLOYEE.—For purposes of this
4 section—

5 “(1) IN GENERAL.—Except as otherwise pro-
6 vided in this subsection, the term ‘qualified em-
7 ployee’ means, with respect to any period, any em-
8 ployee of an employer if—

9 “(A) substantially all of the services per-
10 formed during such period by such employee for
11 such employer are performed within an Indian
12 reservation,

13 “(B) the principal place of abode of such
14 employee while performing such services is on
15 or near the reservation in which the services are
16 performed, and

17 “(C) the employee began work for such
18 employer on or after January 1, 1993.

19 “(2) CREDIT ALLOWED ONLY FOR FIRST 7
20 YEARS.—An employee shall not be treated as a
21 qualified employee for any period after the date 7
22 years after the day on which such employee first
23 began work for the employer.

24 “(3) INDIVIDUALS RECEIVING WAGES IN EX-
25 CESS OF \$30,000 NOT ELIGIBLE.—An employee shall

1 not be treated as a qualified employee for any tax-
2 able year of the employer if the total amount of the
3 wages paid or incurred by such employer to such
4 employee during such taxable year (whether or not
5 for services within an Indian reservation) exceeds
6 the amount determined at an annual rate of
7 \$30,000. The Secretary shall adjust the \$30,000
8 amount contained in the preceding sentence for
9 years beginning after 1993 at the same time and in
10 the same manner as under section 415(d).

11 “(4) EMPLOYMENT MUST BE TRADE OR BUSI-
12 NESS EMPLOYMENT.—An employee shall be treated
13 as a qualified employee for any taxable year of the
14 employer only if more than 50 percent of the wages
15 paid or incurred by the employer to such employee
16 during such taxable year are for services performed
17 in a trade or business of the employer. Any deter-
18 mination as to whether the preceding sentence ap-
19 plies with respect to any employee for any taxable
20 year shall be made without regard to subsection
21 (f)(2).

22 “(5) CERTAIN EMPLOYEES NOT ELIGIBLE.—
23 The term ‘qualified employee’ shall not include—

24 “(A) any individual described in subpara-
25 graph (A), (B), or (C) of section 51(i)(1),

120

1 “(B) any 5-percent owner (as defined in
2 section 416(i)(1)(B)),

3 “(C) any individual who is neither an en-
4 rolled member of an Indian tribe nor the spouse
5 of an enrolled member of an Indian tribe, and

6 “(D) any individual if the services per-
7 formed by such individual for the employer in-
8 volve the conduct of class I, II, or III gaming
9 as defined in section 4 of the Indian Gaming
10 Regulatory Act (25 U.S.C. 2703), or are per-
11 formed in a building housing such gaming ac-
12 tivity.

13 “(6) INDIAN TRIBE DEFINED.—The term ‘In-
14 dian tribe’ means any Indian tribe, band, nation,
15 pueblo, or other organized group or community, in-
16 cluding any Alaska Native village, or regional or vil-
17 lage corporation, as defined in, or established pursu-
18 ant to, the Alaska Native Claims Settlement Act (43
19 U.S.C. 1601 et seq.) which is recognized as eligible
20 for the special programs and services provided by
21 the United States to Indians because of their status
22 as Indians.

23 “(7) INDIAN RESERVATION DEFINED.—The
24 term ‘Indian reservation’ means a reservation, as de-
25 fined in—

1 “(A) section 3(d) of the Indian Financing
2 Act of 1974 (25 U.S.C. 1452(d)), or

3 “(B) section 4(10) of the Indian Child
4 Welfare Act of 1978 (25 U.S.C. 1903 (10)).

5 “(d) EARLY TERMINATION OF EMPLOYMENT BY EM-
6 PLOYER.—

7 “(1) IN GENERAL.—If the employment of any
8 employee is terminated by the taxpayer before the
9 day 1 year after the day on which such employee
10 began work for the employer—

11 “(A) no wages (or qualified employee
12 health insurance costs) with respect to such em-
13 ployee shall be taken into account under sub-
14 section (a) for the taxable year in which such
15 employment is terminated, and

16 “(B) the tax under this chapter for the
17 taxable year in which such employment is ter-
18 minated shall be increased by the aggregate
19 credits (if any) allowed under section 38(a) for
20 prior taxable years by reason of wages (or
21 qualified employee health insurance costs) taken
22 into account with respect to such employee.

23 “(2) CARRYBACKS AND CARRYOVERS AD-
24 JUSTED.—In the case of any termination of employ-
25 ment to which paragraph (1) applies, the carrybacks

1 and carryovers under section 39 shall be properly
2 adjusted.

3 “(3) SUBSECTION NOT TO APPLY IN CERTAIN
4 CASES.—

5 “(A) IN GENERAL.—Paragraph (1) shall
6 not apply to—

7 “(i) a termination of employment of
8 an employee who voluntarily leaves the em-
9 ployment of the taxpayer,

10 “(ii) a termination of employment of
11 an individual who before the close of the
12 period referred to in paragraph (1) be-
13 comes disabled to perform the services of
14 such employment unless such disability is
15 removed before the close of such period
16 and the taxpayer fails to offer reemploy-
17 ment to such individual, or

18 “(iii) a termination of employment of
19 an individual if it is determined under the
20 applicable State unemployment compensa-
21 tion law that the termination was due to
22 the misconduct of such individual.

23 “(B) CHANGES IN FORM OF BUSINESS.—
24 For purposes of paragraph (1), the employment

1 relationship between the taxpayer and an em-
2 ployee shall not be treated as terminated—

3 “(i) by a transaction to which section
4 381(a) applies if the employee continues to
5 be employed by the acquiring corporation,
6 or

7 “(ii) by reason of a mere change in
8 the form of conducting the trade or busi-
9 ness of the taxpayer if the employee con-
10 tinues to be employed in such trade or
11 business and the taxpayer retains a sub-
12 stantial interest in such trade or business.

13 “(4) SPECIAL RULE.—Any increase in tax
14 under paragraph (1) shall not be treated as a tax
15 imposed by this chapter for purposes of—

16 “(A) determining the amount of any credit
17 allowable under this chapter, and

18 “(B) determining the amount of the tax
19 imposed by section 55.

20 “(e) CREDIT LIMITATION AMOUNT.—For purposes of
21 this section—

22 “(1) CREDIT LIMITATION AMOUNT.—The credit
23 limitation amount for a taxable year shall be an
24 amount equal to the credit rate (10 or 30 percent

1 as determined under subsection (a)) multiplied by
2 the increased credit base.

3 “(2) INCREASED CREDIT BASE.—The increased
4 credit base for a taxable year shall be the excess
5 of—

6 “(A) the sum of any qualified wages and
7 qualified employee health insurance costs paid
8 or incurred by the employer during the taxable
9 year with respect to employees whose wages
10 (paid or incurred by the employer) during the
11 taxable year do not exceed the amount deter-
12 mined under paragraph (3) of subsection (c),
13 over

14 “(B) the sum of any qualified wages and
15 qualified employee health insurance costs paid
16 or incurred by the employer (or any prede-
17 cessor) during calendar year 1993 with respect
18 to employees whose wages (paid or incurred by
19 the employer or any predecessor) during 1993
20 did not exceed \$30,000.

21 “(3) SPECIAL RULE FOR SHORT TAXABLE
22 YEARS.—For any taxable year having less than 12
23 months—

1 “(A) the amounts paid or incurred by the
2 employer shall be annualized for purposes of de-
3 termining the increased credit base, and

4 “(B) the credit limitation amount shall be
5 multiplied by a fraction, the numerator of which
6 is the number of days in the taxable year and
7 the denominator of which is 365.

8 “(f) OTHER DEFINITIONS AND SPECIAL RULES.—
9 For purposes of this section—

10 “(1) WAGES.—The term ‘wages’ has the same
11 meaning given to such term in section 51.

12 “(2) CONTROLLED GROUPS.—

13 “(A) All employers treated as a single em-
14 ployer under section (a) or (b) of section 52
15 shall be treated as a single employer for pur-
16 poses of this section.

17 “(B) The credit (if any) determined under
18 this section with respect to each such employer
19 shall be its proportionate share of the wages
20 and qualified employee health insurance costs
21 giving rise to such credit.

22 “(3) CERTAIN OTHER RULES MADE APPLICA-
23 BLE.—Rules similar to the rules of section 51(k)
24 and subsections (c), (d), and (e) of section 52 shall
25 apply.

1 “(4) COORDINATION WITH NONREVENUE
2 LAWS.—Any reference in this section to a provision
3 not contained in this title shall be treated for pur-
4 poses of this section as a reference to such provision
5 as in effect on the date of the enactment of this
6 paragraph.”.

7 (c) DENIAL OF DEDUCTION FOR PORTION OF WAGES
8 EQUAL TO INDIAN EMPLOYMENT CREDIT.—

9 (1) Subsection (a) of section 280C of such Code
10 (relating to rule for targeted jobs credit) is amended
11 by striking “51(a)” and inserting “45(a), 51(a),
12 and”.

13 (2) Subsection (c) of section 196 of such Code
14 (relating to deduction for certain unused business
15 credits) is amended by striking “and” at the end of
16 paragraph (5), by striking the period at the end of
17 paragraph (6) and inserting “, and”, and by adding
18 at the end the following new paragraph:

19 “(7) the Indian employment credit determined
20 under section 45(a).”.

21 (d) DENIAL OF CARRYBACKS TO PREENACTMENT
22 YEARS.—Subsection (d) of section 39 of such Code is
23 amended by adding at the end thereof the following new
24 paragraph:

“(4) NO CARRYBACK OF SECTION 45 CREDIT BEFORE ENACTMENT.—No portion of the unused business credit for any taxable year which is attributable to the Indian employment credit determined under section 45 may be carried to a taxable year ending before the date of the enactment of section 45.”.

(e) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 of such Code is amended by adding at the end thereof the following:

“Sec. 45. Indian employment credit.”.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to wages paid or incurred after December 31, 1993.

Subtitle E—Study

SEC. 451. STUDY OF EFFECTIVENESS OF TAX ENTERPRISE ZONE INCENTIVES.

(a) IN GENERAL.—The Secretary of the Treasury, in consultation with the appropriate Secretary (as defined in section 1393(7) of the Internal Revenue Code of 1986, as added by this title), shall contract within 3 months of the date of the enactment of this Act, with the National Academy of Sciences (hereafter in this section referred to as the “Academy”) to conduct a study of the relative effec-

1 tiveness of the incentives provided by this title in achieving
 2 the purposes of such title in tax enterprise zones.

3 (b) CONDUCT OF STUDY.—If the Academy contracts
 4 for the conduct of the study described in subsection (a),
 5 the Academy shall develop a study methodology and shall
 6 oversee and manage the conduct of such study.

7 (c) REPORTS.—The Academy shall submit to the
 8 Committee on Ways and Means of the House of Rep-
 9 resentatives and the Committee on Finance of the
 10 Senate—

11 (1) not later than July 1, 1997, an interim re-
 12 port setting forth the findings as a result of such
 13 study, and

14 (2) not later than July 1, 2002, a final report
 15 setting forth the findings as a result of such study.

16 **TITLE V—WORKFARE**

17 **SEC. 501. DEVELOPMENT OF A COMPREHENSIVE LEGISLA-**
 18 **TIVE PROPOSAL REQUIRING ADULTS RECEIV-**
 19 **ING AFDC TO ENTER THE WORKFORCE.**

20 (a) IN GENERAL.—The Secretary of Labor (herein-
 21 after referred to as the “Secretary”), in consultation with
 22 the Secretary of Health and Human Services shall develop
 23 a comprehensive legislative proposal which would require
 24 adults receiving aid to families with dependent children
 25 under title IV of the Social Security Act (hereinafter re-

1 ferred to as “AFDC”) to enter the workforce within two
2 years of receiving such aid.

3 (b) SPECIFIC MATTERS TO BE INCLUDED.—The
4 proposal developed pursuant to subsection (a) shall include
5 plans—

6 (1) for education, training, and child care which
7 would permit adults receiving AFDC to gain the
8 skills necessary to become financially independent;

9 (2) to assist adults receiving AFDC in finding
10 employment in the private sector; and

11 (3) providing for placement in meaningful com-
12 munity service jobs for those adults receiving AFDC
13 who cannot find employment in the private sector.

14 (c) REPORT.—No later than one hundred days after
15 January 20, 1994, the Secretary shall submit the proposal
16 developed pursuant to subsection (a) to the Congress.

103D CONGRESS
1ST SESSION

H. R. 1642

To give the President legislative, line-item veto authority over budget authority in appropriations bills in fiscal years 1994 and 1995.

IN THE HOUSE OF REPRESENTATIVES

APRIL 1, 1993

Mr. CASTLE (for himself, Mr. QUINN, and Mr. BLUTE) introduced the following bill; which was referred jointly to the Committees on Government Operations and Rules

A BILL

To give the President legislative, line-item veto authority over budget authority in appropriations bills in fiscal years 1994 and 1995.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 SECTION 1. SHORT TITLE.

4 This Act may be cited as "The Legislative Line Item
5 Veto Act of 1993".

6 SEC. 2. LEGISLATIVE LINE ITEM VETO RESCISSION AU- 7 THORITY.

8 (a) IN GENERAL.—Notwithstanding the provisions of
9 part B of title X of The Congressional Budget and Im-

1 poundment Control Act of 1974, and subject to the provi-
2 sions of this section, the President may rescind all or part
3 of any discretionary budget authority for fiscal years 1994
4 or 1995 which is subject to the terms of this Act if the
5 President—

6 (1) determines that—

7 (A) such rescission would help balance the
8 Federal budget, reduce the Federal budget defi-
9 cit, or reduce the public debt;

10 (B) such rescission will not impair any es-
11 sential Government functions;

12 (C) such rescission will not harm the na-
13 tional interest; and

14 (D) such rescission will directly contribute
15 to the purpose of this Act of limiting discre-
16 tionary spending in fiscal years 1994 or 1995,
17 as the case may be; and

18 (2) notifies the Congress of such rescission by
19 a special message not later than twenty calendar
20 days (not including Saturdays, Sundays, or holidays)
21 after the date of enactment of a regular or supple-
22 mental appropriations act for fiscal year 1994 or
23 1995 or a joint resolution making continuing appro-
24 priations providing such budget authority for fiscal
25 year 1994 or 1995, as the case may be.

1 The President shall submit a separate rescission message
2 for each appropriations bill under this paragraph.

3 **SEC. 3. RESCISSION EFFECTIVE UNLESS DISAPPROVED.**

4 (a) Any amount of budget authority rescinded under
5 this Act as set forth in a special message by the President
6 shall be deemed canceled unless during the period de-
7 scribed in subsection (b), a rescission disapproval bill mak-
8 ing available all of the amount rescinded is enacted into
9 law.

10 (b) The period referred to in subsection (a) is—

11 (1) a congressional review period of twenty cal-
12 endar days of session during which Congress must
13 complete action on the rescission disapproval bill and
14 present such bill to the President for approval or
15 disapproval;

16 (2) after the period provided in paragraph (1),
17 an additional ten days (not including Sundays) dur-
18 ing which the President may exercise his authority
19 to sign or veto the rescission disapproval bill; and

20 (3) if the President vetoes the rescission dis-
21 approval bill during the period provided in para-
22 graph (2), an additional five calendar days of session
23 after the date of the veto.

24 (c) If a special message is transmitted by the Presi-
25 dent under this Act and the last session of the Congress

1 adjourns sine die before the expiration of the period de-
2 scribed in subsection (b), the rescission shall not take ef-
3 fect. The message shall be deemed to have been
4 retransmitted on the first day of the succeeding Congress
5 and the review period referred to in subsection (b) (with
6 respect to such message) shall run beginning after such
7 first day.

8 **SEC. 4. DEFINITIONS.**

9 For purposes of this Act—

10 (a) the term “rescission disapproval bill” means
11 a bill or joint resolution which only disapproves a re-
12 scission of discretionary budget authority for fiscal
13 year 1994 or 1995, in whole, rescinded in a special
14 message transmitted by the President under this
15 Act; and

16 (b) the term “Calendar days of session” shall
17 mean only those days on which both Houses of Con-
18 gress are in session.

19 **SEC. 5. CONGRESSIONAL CONSIDERATION OF LEGISLATIVE**

20 **LINE ITEM VETO RESCISSIONS.**

21 (a) **PRESIDENTIAL SPECIAL MESSAGE.**—Whenever
22 the President rescinds any budget authority as provided
23 in this Act, the President shall transmit to both Houses
24 of Congress a special message specifying—

25 (1) the amount of budget authority rescinded;

1 (2) any account, department, or establishment
2 of the Government to which such budget authority
3 is available for obligation, and the specific project or
4 governmental functions involved;

5 (3) the reasons and justifications for the deter-
6 mination to rescind budget authority pursuant to
7 this Act;

8 (4) to the maximum extent practicable, the esti-
9 mated fiscal, economic, and budgetary effect of the
10 rescission; and

11 (5) all factions, circumstances, and consider-
12 ations relating to or bearing upon the rescission and
13 the decision to effect the rescission, and to the maxi-
14 mum extent practicable, the estimated effect of the
15 rescission upon the objects, purposes, and programs
16 for which the budget authority is provided.

17 (b) TRANSMISSION OF MESSAGES TO HOUSE AND
18 SENATE.—

19 (1) Each special message transmitted under
20 this Act shall be transmitted to the House of Rep-
21 resentatives and the Senate on the same day, and
22 shall be delivered to the Clerk of the House of Rep-
23 resentatives if the House is not in session, and to
24 the Secretary of the Senate if the Senate is not in
25 session. Each special message so transmitted shall

1 be referred to the appropriate committees of the
2 House of Representatives and the Senate. Each mes-
3 sage shall be printed as a document of each House.

4 (2) Any special message transmitted under this
5 Act shall be printed in the first issue of the Federal
6 Register published after such transmittal.

7 (c) REFERRAL OF RESCISSION DISAPPROVAL
8 BILLS.—Any rescission disapproval bill introduced with
9 respect to a special message shall be referred to the appro-
10 priate committees of the House of Representatives or the
11 Senate, as the case may be.

12 (d) CONSIDERATION IN THE SENATE.—

13 (1) Any rescission disapproval bill received in
14 the Senate from the House shall be considered in
15 the Senate pursuant to the provisions of this Act.

16 (2) Debate in the Senate on any rescission dis-
17 approval bill and debatable motions and appeals in
18 connection therewith, shall be limited to not more
19 than ten hours. The time shall be equally divided be-
20 tween, and controlled by, the majority leader and the
21 minority leader or their designees.

22 (3) Debate in the Senate on any debatable mo-
23 tions or appeal in connection with such bill shall be
24 limited to one hour, to be equally divided between,
25 and controlled by the mover and the manager of the

1 bill, except that in the event the manager of the bill
2 is in favor of any such motion or appeal, the time
3 in opposition thereto shall be controlled by the mi-
4 nority leader or his designee. Such leaders, or either
5 of them, may, from the time under their control on
6 the passage of the bill, allot additional time to any
7 Senator during the consideration of any debatable
8 motion or appeal.

9 (4) A motion to further limit debate is not de-
10 batable. A motion to recommit (except a motion to
11 recommit with instructions to report back within a
12 specified number of days not to exceed one, not
13 counting any day on which the Senate is not in ses-
14 sion) is not in order.

15 (e) POINTS OF ORDER.—

16 (1) It shall not be in order in the Senate or the
17 House of Representatives to consider any rescission
18 disapproval bill that relates to any matter other than
19 the rescission budget authority transmitted by the
20 President under this Act.

21 (2) It shall not be in order in the Senate or the
22 House of Representatives to consider any amend-
23 ment to a rescission disapproval bill.

- 1 (3) Paragraphs (1) and (2) may be waived or
2 suspended in the Senate only by a vote of three-
3 fifths of the members duly chosen and sworn.

July 13, 1993

[From the Congressional Record page D765]

MISCELLANEOUS MEASURES

Committee on Post Office and Civil Service: Subcommittee on Census, Statistics and Postal Personnel and the Subcommittee on Elementary, Secondary, and Vocational Education of the Committee on Education and Labor held a joint hearing on the following bills: H.R. 6, Elementary and Secondary Education Act; and H.R. 1642, Poverty Data Improvement Act. Testimony was heard from William P. Butz, Associate Director, Demographic Programs, Bureau of the Census, Department of Commerce; Emerson J. Elliott, Commissioner, Education Statistics, Department of Education; and a public witness.

August 6, 1993

[From the Congressional Record page H6378]

I

103D CONGRESS
1ST SESSION**H. R. 2929**

To amend the Congressional Budget and Impoundment Control Act of 1974
to reform the budget process, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

AUGUST 6, 1993

Mr. COX of California (for himself, Mr. STENHOLM, Mr. MICHEL, Mr. PALLONE, Mr. GINGRICH, Mr. PENNY, Mr. CONDIT, Mr. ARMEY, Mr. JACOBS, Mr. KASICH, Mrs. LLOYD, Mr. CLINGER, Mr. DREIER, Ms. HARMAN, Mr. ALLARD, Mr. ARCHER, Mr. BACHUS of Alabama, Mr. BAKER of California, Mr. BAKER of Louisiana, Mr. BALLENGER, Mr. BARRETT of Nebraska, Mr. BARTLETT of Maryland, Mr. BARTON of Texas, Mr. BATEMAN, Mrs. BENTLEY, Mr. BEREUTER, Mr. BILIRAKIS, Mr. BLILEY, Mr. BLUTE, Mr. BOEHLERT, Mr. BOEHNER, Mr. BONILLA, Mr. BUNNING, Mr. BURTON of Indiana, Mr. BUYER, Mr. CALLAHAN, Mr. CALVERT, Mr. CAMP, Mr. CANADY, Mr. CASTLE, Mr. COBLE, Mr. COLLINS of Georgia, Mr. CRANE, Mr. CRAPO, Mr. CUNNINGHAM, Mr. DELAY, Mr. DICKEY, Mr. DOOLITTLE, Mr. DORNAN, Mr. DUNCAN, Ms. DUNN, Mr. EMERSON, Mr. EVERETT, Mr. EWING, Mr. FAWELL, Mr. FIELDS of Texas, Mrs. FOWLER, Mr. FRANKS of New Jersey, Mr. FRANKS of Connecticut, Mr. GALLEGLY, Mr. GALLO, Mr. GEKAS, Mr. GILCHREST, Mr. GILLMOR, Mr. GOODLATTE, Mr. GOSS, Mr. GRAMS, Mr. GRANDY, Mr. GREENWOOD, Mr. GUNDERSON, Mr. HANCOCK, Mr. HANSEN, Mr. HASTERT, Mr. HEFLEY, Mr. HERGER, Mr. HOEKSTRA, Mr. HOKE, Mr. HORN, Mr. HOBSON, Mr. HOUGHTON, Mr. HUFFINGTON, Mr. HUNTER, Mr. HUTCHINSON, Mr. HYDE, Mr. INGLIS of South Carolina, Mr. INHOFE, Mr. ISTOOK, Mrs. JOHNSON OF CONNECTICUT, Mr. SAM JOHNSON of Texas, Mr. KIM, Mr. KLUG, Mr. KNOLLENBERG, Mr. KOLBE, Mr. KYL, Mr. LEVY, Mr. LEWIS of California, Mr. LEWIS of Florida, Mr. LIGHTFOOT, Mr. LINDER, Mr. LIVINGSTON, Mr. MACHTLEY, Mr. MANZULLO, Mr. MICA, Mr. MCCANDLESS, Mr. MCCOLLUM, Mr. MCCRERY, Mr. MCHUGH, Mr. MCKEON, Mr. McMILLAN, Mrs. MEYERS of Kansas, Mr. MILLER of Florida, Ms. MOLINARI, Mr. MOORHEAD, Mr. OXLEY, Mr. PACKARD, Mr. PAXON, Mr. POMBO, Mr. PETRI, Mr. PORTER, Mr. PORTMAN, Ms. PRYCE of Ohio, Mr. QUINN, Mr. RAMSTAD, Mr. RAVENEL, Mr. ROBERTS, Mr. ROHRBACHER, Ms. ROSLEHTINEN, Mrs. ROUKEMA, Mr. ROYCE, Mr. SANTORUM, Mr. SAXTON, Mr. SCHAEFER, Mr. SCHIFF, Mr. SENSENBRENNER, Mr. SHAW, Mr. SHAYS, Mr. SHUSTER, Mr. SMITH of Oregon, Mr. SMITH of New Jersey,

Mr. SMITH of Texas, Mr. SMITH of Michigan, Ms. SNOWE, Mr. SOLOMON, Mr. SPENCE, Mr. STEARNS, Mr. STUMP, Mr. SUNDQUIST, Mr. TALENT, Mr. TAYLOR of North Carolina, Mr. THOMAS of California, Mr. THOMAS of Wyoming, Mr. TORKILDSEN, Mr. UPTON, Mrs. VUCANOVICH, Mr. WALKER, Mr. WALSH, Mr. WELDON, Mr. WOLF, Mr. ZELIFF and Mr. ZIMMER) introduced the following bill; which was referred jointly to the Committees on Government Operations, Rules, Appropriations, and Ways and Means

A BILL

To amend the Congressional Budget and Impoundment Control Act of 1974 to reform the budget process, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
 2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) **SHORT TITLE.**—This Act may be cited as the
 5 “Budget Process Reform Act”.

TABLE OF CONTENTS

TITLE I—STATEMENT OF CONGRESSIONAL PURPOSE

Sec. 101. Improvement in decision-making process.

Sec. 102. Reform of fiscal management.

Sec. 103. Safeguards against delay and inaction.

TITLE II—BINDING BUDGET LAW

Sec. 201. Joint resolution establishing binding budget law.

Sec. 202. Budget required before spending bills may be considered.

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(a) Determination of budget effect of all proposed spending bills.

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(c) Two-thirds requirement for all over-budget spending bills.

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Sec. 304. President's authority limited to spending above limits of congressional budget law.

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Sec. 307. Fixed-dollar appropriations required.

Sec. 308. Agency-adjusted benefits.

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Sec. 310. Spending offsets required.

Sec. 311. Two-thirds vote required to waive point of order.

TITLE IV—SUSTAINING MECHANISM

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Sec. 402. Contingency regulations.

Sec. 403. Unauthorized appropriations prohibited.

TITLE V—PROTECTION OF SOCIAL SECURITY

Sec. 501. Benefits protected against deficit reduction.

Sec. 502. Conforming amendment.

TITLE VI—TIMETABLE

Sec. 601. Revision of timetable.

TITLE VII—CONFORMING AMENDMENTS

Sec. 701. Conforming and technical amendments changing "Concurrent" to "Joint" Resolutions.

Sec. 702. Further conforming and technical amendments.

Sec. 703. Conforming amendments to the Impoundment Control Act of 1974.

Sec. 704. Conforming amendment to title 31, United States Code.

TITLE VIII—DEFINITIONS AND RULES OF INTERPRETATION

Sec. 801. Definitions.

(a) Definition of budget law.

(b) Other definitions.

Sec. 802. Amendments to Congressional Budget and Impoundment Control Act of 1974.

Sec. 803. Use of terms.

TITLE IX—EFFECTIVE DATE

Sec. 901. General provision.

Sec. 902. Fiscal year.

1 **TITLE I—STATEMENT OF**
2 **CONGRESSIONAL PURPOSE**

3 **SEC. 101. IMPROVEMENT IN DECISION-MAKING PROCESS.**

4 Because the Federal budget process is the principal
5 vehicle by which many of the most fundamental policy
6 choices in Government are made, the purpose of this Act
7 is to facilitate rational, informed, and timely decisions by
8 the Congress in the course of that process.

9 **SEC. 102. REFORM OF FISCAL MANAGEMENT.**

10 It is the sense of the Congress that a properly func-
11 tioning Federal budget process should focus the attention
12 of policymakers and the public on the aggregate impact
13 of Federal spending on the economy, and on the tradeoffs
14 that must be made among priorities in order to control
15 overall levels of spending. To this end, the Act is intended
16 to establish a budget process that, in each fiscal period—

17 (1) requires the adoption of a budget before,
18 not after, any spending begins;

19 (2) produces decisions on that budget early in
20 the budgeting cycle;

21 (3) encourages cooperation between Congress
22 and the President in adopting the budget;

23 (4) ties each subsequent spending decision to
24 an overall, binding budget total;

(5) requires regular, periodic decisions on appropriate spending levels for all Federal programs, not just those arbitrarily deemed "controllable"; and

(6) produces a bias in favor of fiscal responsibility that can be overcome only if the Congress expressly determines to do so.

SEC. 103. SAFEGUARDS AGAINST DELAY AND INACTION.

The Congress further finds that a properly functioning budget process should contain safeguards against delay and inaction, so that temporary shut-downs of the Federal Government may be avoided when the President and the Congress fail to complete work on the budget prior to the beginning of a fiscal period. Accordingly, this Act is intended to provide an enforcement mechanism that gives meaning and importance to the timely adoption of a budget, and a sustaining mechanism that ensures a continuation of the Government should the political process produce deadlock or a failure to act in a timely fashion.

TITLE II—BINDING BUDGET LAW

SEC. 201. JOINT RESOLUTION ESTABLISHING BINDING BUDGET LAW.

To encourage early consultation and cooperation between the Congress and the President on decisions concerning overall spending levels for all Federal programs, the Congress shall enact a binding budget law, in the form

1 of a joint resolution, by April 15 of the calendar year be-
2 fore that in which the fiscal period commences. The tech-
3 nical amendments contained in title VI and section 701
4 of this Act are intended to assist in the establishment of
5 this requirement. The budget law itself shall fit on a single
6 page, which sets forth specific budget ceilings in the fol-
7 lowing 19 major functional categories, which together
8 comprise the entire Federal budget.

9 Function 050: National Defense

10 Function 150: International Affairs

11 Function 250: General Science, Space and
12 Technology

13 Function 270: Energy

14 Function 300: Natural Resources and Environ-
15 ment

16 Function 350: Agriculture

17 Function 400: Transportation

18 Function 450: Community and Regional Devel-
19 opment

20 Function 500: Education, Training, Employ-
21 ment and Social Services

22 Function 550: Health

23 Function 570: Medicare

24 Function 600: Income Security

25 Function 650: Social Security

1 Function 700: Veterans Benefits and Services

2 Function 750: Administration of Justice

3 Function 800: General Government

4 Function 900: Net Interest

5 Function 920: Allowances

6 Function 950: Undistributed Offsetting Re-
7 ceipts.

8 By thus requiring that the budget process begin with
9 highly generalized macroeconomic decisions about spend-
10 ing in 19 overall categories, this section is intended to fa-
11 cilitate agreement within Congress itself, and between
12 Congress and the President, on how much the Federal
13 Government should spend in the ensuing fiscal period.

14 **SEC. 202. BUDGET REQUIRED BEFORE SPENDING BILLS**
15 **MAY BE CONSIDERED.**

16 Unless and until a joint resolution on the budget is
17 enacted with respect to any major functional category for
18 a fiscal period, it shall not be in order in either the House
19 of Representatives or the Senate, or any committee or sub-
20 committee thereof, to consider any spending bill affecting
21 spending in that category, except as provided in Title III
22 of this Act. The purpose of this provision is to ensure that
23 until the budget is signed into law, no authorization or
24 appropriations bill shall be considered in the Congress.

1 **SEC. 203. “BASELINE” BUDGETING PROHIBITED;**
2 **UNADJUSTED YEAR-TO-YEAR COMPARISONS**
3 **REQUIRED IN BUDGET LAW.**

4 Section 301(e) of the Congressional Budget Act of
5 1974 is amended by—

6 (1) inserting after the second sentence the fol-
7 lowing: “The starting point for any deliberations in
8 the Committee on the Budget of each House on the
9 joint resolution on the budget for the next fiscal pe-
10 riod shall be the estimated level of outlays for the
11 current period in each function and subfunction.
12 Any increases or decreases in the Congressional
13 budget for the next fiscal period shall be from such
14 estimated levels.”;

15 (2) striking paragraphs (2) and (3) and insert-
16 ing the following:

17 “(2) a comparison of levels for the current fis-
18 cal period with proposed spending for the subse-
19 quent fiscal periods along with the proposed increase
20 or decrease of spending in percentage terms for each
21 function and subfunction;

22 “(3) information, data, and comparisons indi-
23 cating the manner in which, and the basis on which,
24 the committee determined each of the matters set
25 forth in the joint resolution, including information
26 on outlays for the current fiscal period and the deci-

1 sions reached to set funding for the subsequent fis-
2 cal years;”;

3 (3) inserting “and” after the semicolon in para-
4 graph (7);

5 (4) striking paragraph (8); and

6 (5) redesignating paragraph (9) as paragraph
7 (8).

8 The technical amendments contained in sections
9 702(g) and 704(b) of this Act are intended to apply the
10 same prohibition against “baseline” budgeting to the
11 budgets prepared by the President and the Congressional
12 Budget Office reports to the Budget Committees.

13 **SEC. 204. PRESIDENT'S BUDGET SUBMISSIONS.**

14 On or before the fifteenth day after a joint resolution
15 on the budget is enacted, the President shall submit to
16 the Congress a detailed budget for the fiscal period begin-
17 ning on October 1 of the current calendar year, including
18 all summaries and explanations required under section
19 1105(a) of title 31, United States Code.

1 **TITLE III—ENFORCEMENT MECHANICS**

2 **Subtitle A—Supermajority Required to Break**

3 **Budget Law**

4 **SEC. 301. TWO-THIRDS REQUIREMENT FOR ALL SPENDING**

5 **BILLS IN ABSENCE OF BUDGET LAW.**

6 Unless and until a joint resolution on the budget is
7 enacted with respect to any major functional category for
8 a fiscal period, it shall not be in order in either the House
9 of Representatives or the Senate or any committee or sub-
10 committee thereof, to consider any spending bill affecting
11 spending in that category unless it is approved by the af-
12 firmative vote of two-thirds of the Members voting, a quo-
13 rum being present.

14 **SEC. 302. TWO-THIRDS REQUIREMENT FOR OVER-BUDGET**

15 **SPENDING BILLS.**

16 (a) DETERMINATION OF BUDGET EFFECT OF ALL
17 PROPOSED SPENDING BILLS.—The Congressional Budget
18 Office shall provide to either House of Congress (or the
19 appropriate committee, subcommittee, or conference
20 thereof) as soon as practicable after the introduction of
21 any spending bill, its estimate of the costs in each major
22 functional category attributable to that bill during the fis-
23 cal period in which it is to become effective and in each
24 of the next 4 fiscal years, together with the basis for such
25 estimate. The Congressional Budget Office report shall

11

1 not be required, however, if the Congressional Budget Of-
2 fice certifies that a spending bill will likely result in appli-
3 cable costs of less than \$10,000,000. For purposes of esti-
4 mating the costs attributable to any spending bill that in-
5 cludes new credit authority, the report shall deem the mar-
6 ket value of any loan (if it were sold by the Federal Gov-
7 ernment) or the assumption cost of any guarantee (if it
8 were assumed at market rates) to be the costs attributable
9 to such loan or guarantee in the fiscal period in which
10 it is made.

11 (b) CBO REPORT REQUIRED BEFORE CONSIDER-
12 ATION OF SPENDING BILLS.—It shall not be in order in
13 either the House of Representatives or the Senate, or in
14 any committee thereof, to consider any spending bill, un-
15 less and until the report referred to in subsection (a) has
16 been made available to that House of Congress or the ap-
17 propriate committee or subcommittee thereof.

18 (c) TWO-THIRDS REQUIREMENT FOR ALL OVER-
19 BUDGET SPENDING BILLS.—It shall not be in order in
20 either the House of Representatives or the Senate (or in
21 any committee, subcommittee, or conference) to consider
22 any spending bill for a fiscal period that the report re-
23 ferred to in subsection (a) indicates would in such fiscal
24 period exceed a budget ceiling, unless such bill is approved

1 by the affirmative vote of two-thirds of the Members vot-
2 ing, a quorum being present.

3 (d) DETERMINATION OF SPENDING IN A CAT-
4 EGORY.—A spending bill shall be deemed to break a budg-
5 et ceiling if—

6 (1) its cost in any major functional category as
7 estimated in the report referred to in subsection (a);
8 and

9 (2) all other budget authority, budget outlays,
10 and entitlement authority, if any, in that major
11 functional category for the relevant fiscal period con-
12 tained in any previously enacted legislation for the
13 fiscal period; and

14 (3) to the extent that new budget authority or
15 entitlement authority for the relevant fiscal period
16 has not been granted (or modified from the level of
17 the previous fiscal period) in any other enacted legis-
18 lation for any program within such major functional
19 category, the amounts of budget authority and enti-
20 tlement authority for such major functional category
21 (or part thereof) for the previous fiscal period;
22 exceed the budget ceiling for such major functional cat-
23 egory.

13

1 **SEC. 303. TWO-THIRDS REQUIREMENT FOR WAIVER OF**
2 **THIS ACT.**

3 No waiver of any provision of this Act, including the
4 calendar deadlines for completion of Congressional action
5 and the provisions concerning over-budget spending, shall
6 be effective unless approved by the affirmative vote of two-
7 thirds of the Members of the House of Representatives
8 or the Senate, as the case may be, a quorum being
9 present. No committee of either the House of Representa-
10 tives or the Senate shall have jurisdiction to report a rule
11 governing procedures for consideration of spending bills
12 covered by this Act, if such rule would violate the provi-
13 sions of this section. Nothing in this provision shall be
14 deemed to require a supermajority vote to amend this Act.

15 **Subtitle B—Line Item Reduction**

16 **SEC. 304. PRESIDENT'S AUTHORITY LIMITED TO SPENDING**
17 **ABOVE LIMITS OF CONGRESSIONAL BUDGET**
18 **LAW.**

19 The Impoundment Control Act of 1974 (2 U.S.C.
20 681 et seq.) is amended by redesignating sections 1013
21 through 1017 as sections 1014 through 1018, respectively,
22 and inserting after section 1012 the following new section:

23 **“PRESIDENTIAL LINE-ITEM REDUCTION OF SPENDING**

24 **ABOVE LIMITS OF CONGRESSIONAL BUDGET LAW**

25 **“SEC. 1013. (a) TRANSMITTAL OF SPECIAL MES-**
26 **SAGE.—**The President may transmit to both Houses of

1 Congress for consideration in accordance with this section
2 one or more special messages detailing his use of line item
3 reduction authority to rescind (in whole or in part) items
4 of budget authority or entitlement authority sufficient to
5 ensure that the levels of budget authority, entitlement au-
6 thority, and outlays in a functional category do not exceed
7 the levels stated in the budget law for the applicable fiscal
8 period (or, in the absence of a budget law, do not exceed
9 such levels in the previous fiscal period).

10 “(b) LIMITATIONS.—For purposes of this section—

11 “(1) continuing appropriations made pursuant
12 to section 1311 of title 31, United States Code, shall
13 be treated as continuing appropriations for an entire
14 fiscal period; and

15 “(2) the levels of budget authority, entitlement
16 authority, and outlays shall be determined on the
17 basis of the reports made by the Congressional
18 Budget Office pursuant to section 202 of the Budget
19 Process Reform Act of 1990.

20 “(c) CONTENTS OF SPECIAL MESSAGE.—Each spe-
21 cial message transmitted under subsection (a) shall speci-
22 fy, with respect to each item of budget authority to be
23 rescinded under the President’s line-item reduction au-
24 thority the matters referred to in paragraphs (1) through
25 (5) of section 1012(a).

1 “(d) REQUIREMENT NOT TO MAKE AVAILABLE FOR
2 OBLIGATION.—Any item of budget authority to be re-
3 scinded as set forth in such special message shall not be
4 made available for obligation unless, within the prescribed
5 45-day period, Congress completes action on a bill dis-
6 approving the line-item reduction of the amount to be re-
7 scinded. Funds made available for obligation under this
8 procedure may not be included in a special message again.

9 “(e) PROCEDURES.—

10 “(1)(A) Before the close of the third day begin-
11 ning after the day on which a special message to re-
12 scind an item of budget authority is transmitted to
13 the House of Representatives and the Senate under
14 subsection (a), a line-item reduction bill may be in-
15 troduced (by request) by the majority leader or mi-
16 nority leader of the House of the Congress in which
17 the appropriation Act providing the budget authority
18 originated to disapprove the line-item reduction set
19 forth in the special message. If such House is not
20 in session on the day on which a special message is
21 transmitted, the line-item reduction bill may be in-
22 troduced in such House, as provided in the preced-
23 ing sentence, on the first day thereafter on which
24 such House is in session.

1 “(B) A line-item reduction bill introduced in the
2 House of Representatives or the Senate pursuant to
3 subparagraph (A) shall be referred to the Committee
4 on Appropriations of such House. The Committee
5 shall report the line-item reduction bill without sub-
6 stantive revision (and with or without recommenda-
7 tion) not later than 15 calendar days of continuous
8 session of the Congress after the date on which the
9 bill is introduced. A committee failing to report a
10 line-item reduction bill within the 15-day period re-
11 ferred to in the preceding sentence shall be auto-
12 matically discharged from consideration of the bill
13 and the bill shall be placed on the appropriate cal-
14 endar.

15 “(C) A vote on final passage of a line-item re-
16 duction bill introduced in a House of the Congress
17 pursuant to subparagraph (A) shall be taken on or
18 before the close of the 25th calendar day of continu-
19 ous session of the Congress after the date of the in-
20 troduction of the bill in such House. If the line-item
21 reduction bill is agreed to, the Clerk of the House
22 of Representatives (in the case of a bill agreed to in
23 the House of Representatives) or the Secretary of
24 the Senate (in the case of a bill agreed to in the
25 Senate) shall cause the bill to be engrossed, cer-

1 tified, and transmitted to the other House of the
2 Congress on the same calendar day on which the bill
3 is agreed to.

4 “(2)(A) A line-item reduction bill transmitted
5 to the House of Representatives or the Senate pur-
6 suant to paragraph (1)(C) shall be referred to the
7 Committee on Appropriations of such House. The
8 committee shall report the line-item reduction bill
9 without substantive revision (and with or without
10 recommendation) not later than 10 calendar days of
11 continuous session of the Congress after the bill is
12 transmitted to such House. A committee failing to
13 report the line-item reduction bill within the 10-day
14 period referred to in the preceding sentence shall be
15 automatically discharged from consideration of the
16 bill and the bill shall be placed upon the appropriate
17 calendar.

18 “(B) A vote on the final passage of a line-item
19 reduction bill transmitted to a House of the Con-
20 gress pursuant to paragraph (1)(C) shall be taken
21 on or before the close of the 10th calendar day of
22 continuous session of the Congress after the date on
23 which the bill is transmitted to such House. If the
24 line-item reduction bill is agreed to in such House,
25 the Clerk of the House of Representatives (in the

1 case of a bill agreed to in the House of Representa-
2 tives) or the Secretary of the Senate (in the case of
3 a bill agreed to in the Senate) shall cause the en-
4 grossed bill to be returned to the House in which the
5 bill originated, together with a statement of the ac-
6 tion taken by the House acting under this para-
7 graph.

8 “(3)(A) A motion in the House of Representa-
9 tives to proceed to the consideration of a line-item
10 reduction bill under this section shall be highly privi-
11 leged and not debatable. An amendment to the mo-
12 tion shall not be in order, nor shall it be in order
13 to move to reconsider the vote by which the motion
14 is agreed to or disagreed to.

15 “(B) Debate in the House of Representatives
16 on a line-item reduction bill under this section shall
17 be limited to not more than 2 hours, which shall be
18 divided equally between those favoring and those op-
19 posing the bill. A motion further to limit debate
20 shall not be debatable and shall require an affirma-
21 tive vote of two-thirds of the Members voting, a quo-
22 rum being present. It shall not be in order to move
23 to recommit a line-item reduction bill under this sec-
24 tion or to move to reconsider the vote by which the
25 line-item reduction bill is agreed to or disagreed to.

1 “(C) All appeals from the decisions of the Chair
2 relating to the application of the Rules of the House
3 of Representatives to the procedure relating to a
4 line-item reduction bill under this section shall be
5 decided without debate.

6 “(D) Except to the extent specifically provided
7 in the preceding provisions of this subsection, con-
8 sideration of a line-item reduction bill under this
9 section shall be governed by the Rules of the House
10 of Representatives applicable to other bills in similar
11 circumstances.

12 “(4)(A) A motion in the Senate to proceed to
13 the consideration of a line-item reduction bill under
14 this section shall be privileged and not debatable. An
15 amendment to the motion shall not be in order, nor
16 shall it be in order to move to reconsider the vote
17 by which the motion is agreed to or disagreed to.

18 “(B) Debate in the Senate on a line-item reduc-
19 tion bill under this section, and all debatable mo-
20 tions and appeals in connection therewith, shall be
21 limited to not more than 2 hours. The time shall be
22 equally divided between, and controlled by, the ma-
23 jority leader and the minority leader or their des-
24 ignees.

1 “(C) Debate in the Senate on any debatable
2 motion or appeal in connection with a line-item re-
3 duction bill under this section shall be limited to not
4 more than 1 hour, to be equally divided between,
5 and controlled by, the mover and the manager of the
6 bill except that in the event the manager of the bill
7 is in favor of any such motion or appeal, the time
8 in opposition thereto shall be controlled by the mi-
9 nority leader or his designee. Such leaders, or either
10 of them, may, from time under their control on the
11 passage of a line-item reduction bill, allot additional
12 time to any Senator during the consideration of any
13 debatable motion or appeal.

14 “(D) A motion in the Senate to further limit
15 debate on a line-item reduction bill under this sec-
16 tion is not debatable. A motion to recommit a line-
17 item reduction bill under this section is not in order.

18 “(f) AMENDMENTS PROHIBITED.—No amendment to
19 a line-item reduction bill considered under this section
20 shall be in order in either the House of Representatives
21 or the Senate. No motion to suspend the application of
22 this subsection shall be in order in either House, nor shall
23 it be in order in either House for the presiding officer to
24 entertain a request to suspend the application of this sub-
25 section by unanimous consent.”.

1 SEC. 305. APPLICATION.

2 The amendments made by section 304 shall apply to
3 items of budget authority (as defined in subsection (g)(1)
4 of section 1013, as added by section 103(b) of this Act)
5 provided by appropriation Acts (as defined in subsection
6 (g)(3) of such section) that become law after the date of
7 enactment of this Act.

8 **Subtitle C—"Blank Check" Appropriations**
9 **Prohibited**

10 SEC. 306. INTENT OF CONGRESS.

11 It is the intent of Congress, by this provision, to put
12 an end to open-ended, "blank check" appropriations,
13 which typically authorize the spending of "such sums as
14 may be necessary." By requiring explicit decisions con-
15 cerning the desired level of spending for each federal pro-
16 gram (except Social Security and interest on the debt),
17 it is intended that currently uncontrolled programs will be
18 brought within the discipline of an overall budget.

19 SEC. 307. FIXED-DOLLAR APPROPRIATIONS REQUIRED.

20 (a) **FIXED-DOLLAR APPROPRIATIONS.**—For every ac-
21 count except Social Security and interest on the debt,
22 every appropriation for a fiscal period for any program,
23 project, or activity (including claims, judgments, and relief
24 acts) shall be for a specific, fixed dollar amount. Any ap-
25 propriations of "such sums as may be necessary" (except

1 with respect to the automatic continuing resolution pro-
2 vided for by section 401 of this Act) are hereby prohibited.

3 (b) POINT OF ORDER.—It shall not be in order in
4 either the House of Representatives or the Senate (or in
5 any committee, subcommittee, or conference) to consider
6 any appropriation that is in violation of subsection (a).

7 **SEC. 308. AGENCY AUTHORITY TO ADJUST EXPENDITURES**
8 **TO APPROPRIATED AMOUNTS.**

9 (a) The head of each Executive agency that admin-
10 isters any entitlement program is authorized to adjust
11 benefit levels and eligibility requirements, or both, with re-
12 spect to the program such that aggregate outlays for a
13 fiscal period do not exceed the fixed-dollar appropriation
14 provided pursuant to this title for such fiscal period. Such
15 adjustment shall be made by rule or, pending adoption of
16 appropriate rules, informal guideline. The purpose of any
17 such rule or guideline shall be to ensure that the fixed-
18 dollar appropriations for the program authorized by Con-
19 gress are not exceeded.

20 (b) In the event that any claim or judgment against
21 the United States exceeds the amount available therefor,
22 the aggregate appropriations for claims, judgments, and
23 relief for the current fiscal period, then the excess shall
24 be paid first out of discretionary funds appropriated in
25 such fiscal year to the department or agency against which

1 the judgment or claim is due, next out of unobligated
2 funds appropriated to that department or agency in such
3 fiscal year, and finally out of funds appropriated to that
4 department or agency for the next fiscal year. The obliga-
5 tion set forth herein of a department or agency to pay
6 such claims or judgments in excess of amounts authorized
7 therefor in applicable judgment, claim and relief acts shall
8 supersede all other budget requirements for that depart-
9 ment or agency, any other provision of law to the contrary
10 notwithstanding.

11 **SEC. 309. BUDGET AUTHORITY AND ENTITLEMENT AU-**
12 **THORITY MAY COVER ONLY A SINGLE FISCAL**
13 **PERIOD.**

14 Chapter 13 of title 31, United States Code, is amend-
15 ed by inserting after section 1312 the following new sec-
16 tion:

17 **“§ 1313. Budget authority and entitlement authority**
18 **must cover single fiscal period**

19 “(a) Notwithstanding any other provision of law and
20 except as provided by subsection (b), no budget authority
21 or entitlement authority—

22 “(1) enacted on or after the date of enactment
23 of this section shall be effective for more than one
24 fiscal period; or

1 “(2) enacted before the date of enactment of
2 this section shall continue in effect beyond the end
3 of the first fiscal period beginning after the date of
4 enactment of this section.

5 “(b) Subsection (a) does not apply with respect to
6 appropriations for the repayment of indebtedness incurred
7 under chapter 31 or benefits payable under the old-age,
8 survivors, and disability insurance program established
9 under title II of the Social Security Act.”.

10 **Subtitle D—“Pay As You Go” Requirement for**
11 **New Spending**

12 **SEC. 310. SPENDING OFFSETS REQUIRED.**

13 It shall not be in order in either the House of Rep-
14 resentatives or the Senate to consider any supplemental
15 appropriation measure, or any other bill, resolution, or
16 amendment which authorizes, requires, or provides new
17 entitlements/mandatory spending as defined in section 3
18 (12)(A) of the Congressional Budget and Impoundment
19 Control Act of 1974, or which authorizes spending for a
20 fiscal period that the report referred to in section 302(a)
21 of this Act indicates would in such fiscal period exceed
22 a budget ceiling, unless any such increased spending called
23 for therein is offset fully in each such fiscal period in such
24 measure, bill, resolution or amendment by an equal
25 amount of reductions in existing spending.

1 **SEC. 311. TWO-THIRDS VOTE REQUIRED TO WAIVE POINT**
2 **OF ORDER.**

3 The point of order established by this subtitle may
4 be waived or suspended in the Senate or in the House of
5 Representatives, and an appeal of the ruling of the Chair
6 on a point of order raised under this section may be sus-
7 tained, only by the affirmative vote of two-thirds of the
8 Members voting, a quorum being present.

9 **TITLE IV—SUSTAINING MECHANISM**

10 **SEC. 401. AUTOMATIC CONTINUING RESOLUTION.**

11 Chapter 13 of title 31, United States Code, is amend-
12 ed by inserting after section 1310 the following new sec-
13 tion:

14 **“§ 1311. Continuing appropriation**

15 “(a) If for any account an appropriation for a fiscal
16 period does not become law before the beginning of such
17 fiscal period, there are hereby appropriated, out of any
18 moneys in the Treasury not otherwise appropriated, and
19 out of applicable corporate or other revenues, receipts, and
20 funds, such sums as may be necessary to continue any
21 program, project, or activity provide for in the most recent
22 appropriation Act at a rate of operations not in excess of
23 the rate of operations provided for such program, project,
24 or activity in such Act. In no case shall the total dollar-
25 amount of appropriations for any program, project or ac-
26 tivity pursuant to this section exceed the appropriation for

1 such program, project, or activity in the most recent ap-
2 propriation Act, determined on a fiscal-period basis.

3 “(b) Amounts appropriated pursuant to subsection
4 (a) for a program, project, or activity shall be available
5 during a fiscal period until the earlier of—

6 “(1) the day on which the appropriation bill for
7 such fiscal period which would include the program,
8 project, or activity takes effect; or

9 “(2) the last day of such fiscal period.”.

10 **SEC. 402. CONTINGENCY REGULATIONS.**

11 Chapter 13 of title 31, United States Code, is amend-
12 ed by inserting after section 1311 the following new sec-
13 tion:

14 **“§ 1312. Contingency regulations**

15 “(a) Notwithstanding any other provisions of law and
16 except as provided by subsection (b), the head of each Ex-
17 ecutive agency that administers any entitlement program
18 shall, by rule (or informal guideline, pending adoption of
19 appropriate rules), provide for the adjustments of benefit
20 levels or eligibility requirements, or both, with respect to
21 the program such that aggregate outlays for a fiscal period
22 do not exceed the fixed-dollar appropriation provided pur-
23 suant to section 307? (requiring fixed-dollar appropria-
24 tions) or section 401 (providing for an Automatic Continu-
25 ing Resolution) of this Act for such fiscal period.

1 “(b) In the case of social safety net programs, the
2 rules shall provide each State the option of receiving an
3 aggregate amount for the fiscal period for such programs
4 equal to the amount it received for the preceding fiscal
5 period for such programs (in which case such State could,
6 in its discretion, allocate the benefits among such pro-
7 grams to best meet the needs of recipients in its State)
8 or the amounts it received for each such program for such
9 preceding fiscal period.

10 “(c) As used in this section—

11 “(1) the term ‘Executive agency’ has the mean-
12 ing given such term in section 105 of title 5, United
13 States Code;

14 “(2) the term ‘entitlement program’ means any
15 spending authority as defined in section
16 401(c)(2)(C) of the Congressional Budget Act of
17 1974; and

18 “(3) the term ‘social safety net programs’
19 means the following programs: family support pay-
20 ments, adoption assistance, child support enforce-
21 ment, food stamps, foster care, Medicaid, child nu-
22 trition programs, social services block grant, and
23 supplemental security income (SSI).”.

24 **SEC. 403. UNAUTHORIZED APPROPRIATIONS PROHIBITED.**

25 Section 401(b) is amended to read as follows:

1 “(b) CONTROLS ON LEGISLATION PROVIDING FUND-
2 ING.—(1) It shall not be in order in either the House of
3 Representatives or the Senate to consider any bill, resolu-
4 tion, or conference report that provides budget authority
5 or spending authority described in subsection (c)(2)(C) ex-
6 cept a bill or resolution reported by the Committee on Ap-
7 propriations of that House or a conference report made
8 by a committee or conference all of whose conferees are
9 member of the Committee on Appropriations.

10 “(2) Paragraph (1) shall not apply to benefits pay-
11 able under the old-age, survivors, and disability insurance
12 program established under title II of the Social Security
13 Act.”.

14 **TITLE V—PROTECTION OF SOCIAL**
15 **SECURITY**

16 **SEC. 501. BENEFITS PROTECTED AGAINST DEFICIT REDUC-**
17 **TION.**

18 Nothing in this Act shall be construed to require or
19 permit reductions in Social Security benefits otherwise
20 payable pursuant to applicable law or regulations.

21 **SEC. 502. CONFORMING AMENDMENT.**

22 Chapter 13 of title 31, United States Code, is amend-
23 ed by inserting after section 1313 the following new sec-
24 tion:

1 **“§ 1314. Protection of social security from budget def-**
 2 **icit reduction measures**

3 “No reductions in benefits payable under the old-age,
 4 survivors, and disability insurance program established
 5 under title II of the Social Security Act shall be made as
 6 a consequence of the Budget Process Reform Act”.

7 **TITLE VI—TIMETABLE**

8 **SEC. 601. REVISION OF TIMETABLE.**

9 Section 300 (2 U.S.C. 631) is amended to read as
 10 follows:

11 **“TIMETABLE**

12 **“SEC. 300. The timetable with respect to the Con-**
 13 **gressional budget process for any Congress (beginning**
 14 **with the One Hundred Fourth Congress) is as follows:**

“On or before:

First Monday in February
 February 15
 February 25
 March 31
 April 15
 President signs joint resolution, or
 Congress overrides veto.
 15th day after enactment of joint
 budget resolution.
 June 10
 September 30

Action to be completed:

President submits short-form budget
 recommendations.
 Congressional Budget Office submits
 report to Budget Committees.
 Committees submit views and esti-
 mates to Budget Committees.
 Budget Committees report joint reso-
 lution on the budget.
 Congress completes action on joint
 resolution on the budget and trans-
 mits it to the President for signa-
 ture or veto.
 Authorization and appropriations bills
 may be considered in the Congress.
 President submits complete budget
 and support documents.
 Appropriations Committees report
 last of annual appropriation bills.
 Congress completes action on rec-
 onciliation legislation and annual
 appropriation bills.

“On or before:

October 1

Action to be completed:

Fiscal period begins. Congress completes all necessary action on budget, authorizations and appropriations, or automatic continuing resolution takes effect.”.

1 **TITLE VII—CONFORMING AMENDMENTS**

2 **SEC. 701. CONFORMING AND TECHNICAL AMENDMENTS**

3 **CHANGING “CONCURRENT” TO “JOINT” RESO-**
 4 **LUTIONS.**

5 (a) Sections 300, 301, 302, 303, 304, 305, 308, 310,
 6 and 311 (2 U.S.C. 631 et seq.) are amended by striking
 7 “concurrent resolutions” each place it appears and by in-
 8 serting “joint resolution”.

9 (b) The table of contents set forth in section 1(b) is
 10 amended by striking “Concurrent” in the items relating
 11 to sections 301, 303, and 304 and inserting “Joint”.

12 (c) Clauses 4(a)(2), 4(b)(2), 4(g), and 4(h) of rule
 13 X, clause 8 of rule XXIII, and rule XLIX of the Rules
 14 of the House of Representatives are amended by striking
 15 “concurrent” and by inserting in its place “joint”.

16 (d) Section 258C(b)(1) of the Deficit Control Action
 17 of 1985 is amended by striking “concurrent” and by in-
 18 serting “joint”.

19 **SEC. 702. FURTHER CONFORMING AND TECHNICAL AMEND-**
 20 **MENTS.**

21 (a) Section 302(f) (2 U.S.C. 633(f)) is amended—

(1) in paragraph (1) by striking “(1) IN THE HOUSE OF REPRESENTATIVES.—”, by striking “new budget authority for such fiscal year, new entitlement authority effective during such fiscal year, or” and by striking “new discretionary budget authority, new entitlement authority, or”; and

(2) by striking paragraph (2).

(b) Section 303 is amended—

(1) in its heading by striking “NEW BUDGET AUTHORITY, NEW SPENDING AUTHORITY,” and the comma before “OR CHANGES”;

(2) in subsection (a) by striking paragraphs (1), (4) and (5) and by redesignating paragraphs (2), (3), and (6) as paragraphs (1), (2), and (3), respectively; and

(3) in subsection (b) by striking paragraph (1)(A), by striking “(B)”, by striking the dash after “resolution”, and by striking the last sentence.

(c) The table of contents set forth in section 1(b) is amended by striking “new budget authority, new spending authority,” and the comma before “or changes” in the item relating to section 303.

(d) Section 311 is amended—

(1) in its heading by striking “NEW BUDGET AUTHORITY, NEW SPENDING AUTHORITY, AND”;

1 (2) in subsection (a)(1) by striking “providing
2 new budget authority for such fiscal year, providing
3 new entitlement authority effective during such fis-
4 cal year, or”; by striking “the appropriate level of
5 total new budget authority or total budget outlays
6 set forth in the most recently agreed to concurrent
7 resolution on the budget to be exceeded, or”;

8 (3) by repealing subsection (b); and

9 (4) by redesignating subsection (c) as sub-
10 section (b), and by striking “new budget authority,
11 budget outlays, new entitlement authority, and” in
12 subsection (c) (as redesignated).

13 (e) The table of contents set forth in section 1(b) is
14 amended by striking “new budget authority, new spending
15 authority, and” in the item relating to section 311.

16 (f) The last sentence of clause 4(b) of rule XI of the
17 Rules of the House of Representatives is amended by in-
18 serting before the period at the end of the following: “;
19 nor shall it report any rule or order which would waive
20 any point of order set forth in title III of the Budget Proc-
21 ess Reform Act”.

22 (g) The first sentence of section 202(f)(1) of the Con-
23 gressional Budget Act of 1974 is amended to read as fol-
24 lows: “On or before February 15 of each year, the Direc-
25 tor shall submit to the Committees on the Budget of the

1 House of Representatives and the Senate a report, for the
2 fiscal year commencing on October 1 of that year, with
3 respect to fiscal policy, including (A) estimated budget
4 outlays in all functions and subfunctions for appropriated
5 accounts for the current fiscal year and estimated budget
6 outlays under current law for all entitlement programs for
7 the next fiscal year, (B) alternative levels of total reve-
8 nues, total new budget authority, and total outlays (in-
9 cluding related surpluses and deficits), and (C) the levels
10 of tax expenditures under existing law, taking into account
11 projected economic factors and any changes in such levels
12 based on proposals in the budget submitted by the Presi-
13 dent for such fiscal year.”.

14 **SEC. 703. CONFORMING AMENDMENTS TO THE IMPOUND-**
15 **MENT CONTROL ACT OF 1974.**

16 (a) Section 1011(5) (2 U.S.C. 682(5)) is amended—

17 (1) by striking “1012, and” and inserting
18 “1012, the 20-day periods referred to in paragraphs
19 (1)(b) and (2)(A) of section 1013(c), the 45-day pe-
20 riod referred to in section 1013(b), and”;

21 (2) by striking “1012 during” and inserting
22 “1012 or 1013 during”;

23 (3) by striking “of 45” and inserting “of the
24 applicable number of”; and

1 (4) by striking “45-day period referred to in
2 paragraph (3) of this section and in section 1012”
3 and inserting “period or periods of time applicable
4 under such section”.

5 (b) Section 1011 is further amended—

6 (1) in paragraph (4) by striking “1013” and in-
7 serting “1014”; and

8 (2) in paragraph (5)—

9 (A) by striking “1016” and inserting
10 “1017”; and

11 (B) by striking “1017(b)(1)” and inserting
12 “1018(b)(1)”.

13 (c) Section 1015 (as redesignated) is amended—

14 (1) by striking “1012 or 1013” each place it
15 appears and inserting “1012, 1013, or 1014”;

16 (2) in subsection (b)(1) by striking “1012” and
17 inserting “1012 or 1013”;

18 (3) in subsection (b)(2) by striking “1013” and
19 inserting “1014”; and

20 (4) in subsection (e)(1)—

21 (A) by striking “and” at the end of sub-
22 paragraph (A),

23 (B) by redesignating subparagraph (B) as
24 subparagraph (C),

1 (C) by striking “1013” in subparagraph

2 (C) (as redesignated), and

3 (D) by inserting after subparagraph (A)

4 the following new subparagraph:

5 “(B) he has transmitted a special message

6 under section 1013 with respect to a proposed

7 rescission; and”.

8 (d) Section 1016 (as redesignated) is amended by

9 striking “1012 or 1013” each place it appears and insert-
10 ing “1012, 1013, or 1014”.

11 (e) Section 1012(b) is amended by inserting before

12 the last sentence the following new sentence: “The preced-

13 ing sentence shall not apply to any item of budget author-

14 ity proposed by the President to be rescinded under this

15 section that the President has also proposed to rescind

16 under section 1013 and with respect to which the 45-day

17 period referred to in subsection (e) of such section has

18 not expired.”.

19 (f) The table of sections set forth in section 1(b) is

20 amended—

21 (1) by redesignating the items relating to sec-

22 tions 1013 through 1017 as items relating to sec-

23 tions through 1018, respectively; and

24 (2) by inserting after the item relating to “sec-

25 tion 1012 the following new item:

“Sec. 1013. Rescission of spending outside of congressional budget.”.

36

1 SEC. 704. CONFORMING AMENDMENT TO TITLE 31, UNITED
 2 STATES CODE.

3 (a) The analysis of chapter 13 of title 31, United
 4 States Code, is amended by inserting after the item relat-
 5 ing to section 1310 the following new items:

“Sec. 1311. Continuing appropriation.

“Sec. 1312. Contingency regulations.

“Sec. 1313. Appropriations must be biennial.

“Sec. 1314. Protection of Social Security from budget deficit reduction meas-
 ures.”.

6 (b) Paragraph (5) of section 1105(a) of title 31,
 7 United States Code, is amended to read as follows:

8 “(5) except as provided in subsection (b) of this
 9 section—

10 “(A) estimated expenditures and proposed
 11 appropriations for each function and
 12 subfunction in the current fiscal year;

13 “(B) estimated expenditures and proposed
 14 appropriations the President decides are nee-
 15 essary to support the Government for each
 16 function and subfunction in the fiscal year for
 17 which the budget is submitted; and

18 “(C) a comparison of levels of estimated
 19 expenditures and proposed appropriations for
 20 each function and subfunction in the current
 21 fiscal year and the fiscal year for which the
 22 budget is submitted, along with the proposed

1 increase or decrease of spending in percentage
2 terms for each function and subfunction;”.

3 (b) Section 1105(a) of title 31, United States Code,
4 is amended—

5 (1) in the first sentence, by inserting “on a sin-
6 gle page, which sets forth specific budget ceilings for
7 that fiscal period in the nineteen major functional
8 categories described in section 201 of the Budget
9 Process Reform Act” before the period; and

10 (2) by repealing the second sentence and all of
11 the third sentence preceding the colon and inserting
12 the following: “On or before the fifteenth day after
13 a joint resolution on the budget for that budget pe-
14 riod is enacted, the President shall submit a detailed
15 budget for that fiscal period, including a budget
16 message and summary and supporting information,
17 as follows”.

18 **TITLE VIII—DEFINITIONS AND RULES OF** 19 **INTERPRETATION**

20 **SEC. 801. DEFINITIONS.**

21 (a) **DEFINITION OF BUDGET LAW.**—Section 3(4) (2
22 U.S.C. 622(4)), containing general definitions under the
23 Budget Act is amended to read as follows:

24 “(4) The term ‘budget law’ or ‘joint resolution
25 on the budget’ means—

1 “(A) a joint resolution setting forth the
2 simplified budget for the United States Govern-
3 ment for a fiscal period as provided in section
4 301; and

5 “(B) any other joint resolution revising the
6 budget for the United States Government for a
7 fiscal period as described in section 304.”.

8 (b) OTHER DEFINITIONS.—Section 3 (2 U.S.C. 622)
9 is further amended by adding at the end the following new
10 paragraphs:

11 “(11) The term ‘major functional category’ re-
12 fers to the groupings of budget authority, budget
13 outlays, and credit authority (including continuing
14 appropriations pursuant to section 1331 of title 31,
15 United States Code) into any one of the following:

16 “Function 050: National Defense

17 “Function 150: International Affairs

18 “Function 250: General Science, Space
19 and Technology

20 “Function 270: Energy

21 “Function 300: Natural Resources and
22 Environment

23 “Function 350: Agriculture

24 “Function 400: Transportation

1 “Function 450: Community and Regional
2 Development

3 “Function 500: Education, Training, Em-
4 ployment and Social Services

5 “Function 550: Health

6 “Function 570: Medicare

7 “Function 600: Income Security

8 “Function 650: Social Security

9 “Function 700: Veterans Benefits and
10 Services

11 “Function 750: Administration of Justice

12 “Function 800: General Government

13 “Function 900: Net Interest

14 “Function 920: Allowances

15 “Function 950: Undistributed Offsetting
16 Receipts.”

17 “(12) The term ‘budget ceiling’ means the dol-
18 lar amount set forth in a budget law for a major
19 functional category.

20 “(13) The term ‘spending bill’ means any bill or
21 resolution, or amendment thereto or conference re-
22 port thereon, which provides budget authority,
23 spending authority, credit authority, or outlays.

24 “(14) The term ‘fiscal period’ means the twelve-
25 month fiscal year beginning October 1 currently in

1 use, or any other fiscal period (such as a biennial
2 period) that may subsequently be adopted for the
3 management of the budget of the United States.”.

4 **SEC. 802. AMENDMENTS TO CONGRESSIONAL BUDGET AND**
5 **IMPOUNDMENT CONTROL ACT OF 1974.**

6 Except as otherwise expressly provided, whenever any
7 provision of this Act is expressed as an amendment to a
8 section or other provision, the reference shall be deemed
9 to be made to a section or other provision of the Congres-
10 sional Budget and Impoundment Control Act of 1974.

11 **SEC. 803. USE OF TERMS.**

12 Whenever any term is used in this Act which is de-
13 fined in section 3 of the Congressional Budget Impound-
14 ment Control Act of 1974, the term shall have the mean-
15 ing given to such term in that Act.

16 **TITLE IX—EFFECTIVE DATE**

17 **SEC. 901. GENERAL PROVISION.**

18 Except as provided in section 902, this Act and the
19 amendments made by it shall become effective January 1,
20 1995, and shall apply to fiscal periods beginning after
21 September 30, 1995.

22 **SEC. 902. FISCAL YEAR 1995.**

23 Notwithstanding subsection (a), the provisions of—
24 (1) the Congressional Budget Impoundment
25 Control Act of 1974,

1 (2) title 31, United States Code, and
2 (3) the Balanced Budget and Emergency Defi-
3 cit Control Act of 1985 (as such provisions were in
4 effect on the day before the effective date of this
5 Act),
6 shall apply to the fiscal year beginning on October 1,
7 1994.

May 17, 1994

[From the Congressional Record page H3521]

I

103D CONGRESS
2D SESSION

H. R. 4434

To reform the concept of baseline budgeting, set forth strengthened procedures for the consideration of rescissions, provide a mechanism for dedicating savings from spending cuts to deficit reduction, and ensure that only one emergency is included in any bill containing an emergency designation.

IN THE HOUSE OF REPRESENTATIVES

MAY 17, 1994

Mr. STENHOLM (for himself, Mr. PENNY, and Mr. KASICH) introduced the following bill; which was referred jointly to the Committees on Government Operations and Rules

A BILL

To reform the concept of baseline budgeting, set forth strengthened procedures for the consideration of rescissions, provide a mechanism for dedicating savings from spending cuts to deficit reduction, and ensure that only one emergency is included in any bill containing an emergency designation.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the "Common Cents Budget
5 Reform Act of 1994".

TITLE I—ELIMINATION OF BASELINE BUDGETING

SEC. 101. THE BASELINE.

Except for purposes of adjusting the discretionary spending limits set forth in section 601(a)(2) of the Congressional Budget Act of 1974, section 257(c) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended—

(1) in the second sentence of paragraph (1), by striking “sequentially and cumulatively” and by striking “for inflation as specified in paragraph (5),”; and

(2) and by redesignating paragraph (6) as paragraph (5).

SEC. 102. THE PRESIDENT'S BUDGET.

(a) Paragraph (5) of section 1105(a) of title 31, United States Code, is amended to read as follows:

“(5) except as provided in subsection (b) of this section, estimated expenditures and appropriations for the current year and estimated expenditures and proposed appropriations the President decides are necessary to support the Government in the fiscal year for which the budget is submitted and the 4 fiscal years following that year;”.

1 (b) Section 1105(a)(6) of title 31, United States
2 Code, is amended by inserting “current fiscal year and
3 the” before “fiscal year”.

4 (c) Section 1105(a)(12) of title 31, United States
5 Code, is amended by striking “and” at the end of subpara-
6 graph (A), by striking the period and inserting “; and”
7 at the end of subparagraph (B), and by adding at the end
8 the following new subparagraph:

9 “(C) the estimated amount for the same activ-
10 ity (if any) in the current fiscal year.”.

11 (d) Section 1105(a)(18) of title 31, United States
12 Code, is amended by inserting “new budget authority
13 and” before “budget outlays”.

14 (e) Section 1105(a) of title 31, United States Code,
15 is amended by adding at the end the following new para-
16 graph:

17 “(30) a comparison of levels of estimated ex-
18 penditures and proposed appropriations for each
19 function and subfunction in the current fiscal year
20 and the fiscal year for which the budget is submit-
21 ted, along with the proposed increase or decrease of
22 spending in percentage terms for each function and
23 subfunction.”.

24 (f) Section 1109(a) of title 31, United States Code,
25 is amended by adding after the first sentence the following

1 new sentence: "These estimates shall not include an ad-
2 justment for inflation for programs and activities subject
3 to discretionary appropriations."

4 **SEC. 103. CONGRESSIONAL BUDGET.**

5 Section 301(e) of the Congressional Budget Act of
6 1974 is amended by—

7 (1) inserting after the second sentence the fol-
8 lowing: "The starting point for any deliberations in
9 the Committee on the Budget of each House on the
10 concurrent resolution on the budget for the next fis-
11 cal year shall be the estimated level of outlays for
12 the current year in each function and subfunction.
13 Any increases or decreases in the Congressional
14 budget for the next fiscal year shall be from such es-
15 timated levels."; and

16 (2) striking paragraph (8) and redesignating
17 paragraphs (9) and (10) as paragraphs (10) and
18 (11), respectively, and by inserting after paragraph
19 (7) the following new paragraphs:

20 "(8) a comparison of levels for the current fis-
21 cal year with proposed spending and revenue levels
22 for the subsequent fiscal years along with the pro-
23 posed increase or decrease of spending in percentage
24 terms for each function and subfunction; and

1 “(9) information, data, and comparisons indi-
2 cating the manner in which and the basis on which,
3 the committee determined each of the matters set
4 forth in the concurrent resolution, including infor-
5 mation on outlays for the current fiscal year and the
6 decisions reached to set funding for the subsequent
7 fiscal years;”.

8 **SEC. 104. CONGRESSIONAL BUDGET OFFICE REPORT TO**
9 **COMMITTEES.**

10 (a) The first sentence of section 202(f)(1) of the Con-
11 gressional Budget Act of 1974 is amended to read as fol-
12 lows: “On or before February 15 of each year, the Direc-
13 tor shall submit to the Committees on the Budget of the
14 House of Representatives and the Senate a report for the
15 fiscal year commencing on October 1 of that year with
16 respect to fiscal policy, including (A) alternative levels of
17 total revenues, total new budget authority, and total out-
18 lays (including related surpluses and deficits) compared
19 to comparable levels for the current year and (B) the levels
20 of tax expenditures under existing law, taking into account
21 projected economic factors and any changes in such levels
22 based on proposals in the budget submitted by the Presi-
23 dent for such fiscal year.”.

24 (b) Section 202(f)(1) of the Congressional Budget
25 Act of 1974 is amended by inserting after the first sen-

1 tence the following new sentence: "That report shall also
2 include a table on sources of spending growth under cur-
3 rent law in total mandatory spending for the budget year
4 and the ensuing 4 fiscal years, which shall include changes
5 in outlays attributable to the following: cost-of-living ad-
6 justments; changes in the number of program recipients;
7 increases in medical care prices, utilization and intensity
8 of medical care; and residual factors."

9 (c) Section 202(f)(3) of the Congressional Budget
10 Act of 1974 is amended by striking "and" before "(B)"
11 and inserting a comma, and by inserting before the period
12 at the end the following: ", and (C) all programs and ac-
13 tivities with permanent or indefinite spending authority or
14 that fall within section 401(c)(2)(C)".

15 (d) Section 308(a)(1) of the Congressional Budget
16 Act of 1974 is amended—

17 (1) in subparagraph (C), by inserting ", and
18 shall include a comparison of those levels to com-
19 parable levels for the current fiscal year" before "if
20 timely submitted"; and

21 (2) by striking "and" at the end of subpara-
22 graph (C), by striking the period and inserting "
23 and" at the end of subparagraph (D), and by adding
24 at the end the following new subparagraph:

1 “(E) comparing the levels in existing pro-
2 grams in such measure to the estimated levels
3 for the current fiscal year.”

4 **TITLE II—CHANGES IN DISCRE-** 5 **TIONARY SPENDING LIMITS**

6 **SEC. 201. DOWNWARD ADJUSTMENTS OF DISCRETIONARY** 7 **SPENDING LIMITS.**

8 (a) DOWNWARD ADJUSTMENTS.—The discretionary
9 spending limit for new budget authority for any fiscal year
10 set forth in section 601(a)(2) of the Congressional Budget
11 Act of 1974, as adjusted in strict conformance with sec-
12 tion 251 of the Balanced Budget and Emergency Deficit
13 Control Act of 1985, shall be reduced by the amount in
14 the Deficit Reduction Account set forth in each appropria-
15 tion bill (or changed in the case of a rescission bill pursu-
16 ant to section 1012 of the Congressional Budget Act of
17 1974), as calculated by the Director of the Office of Man-
18 agement and Budget. The adjusted discretionary spending
19 limit for outlays for that fiscal year and each outyear as
20 set forth in such section 601(a)(2) shall be reduced as a
21 result of the reduction of such budget authority, as cal-
22 culated by the Director of the Office of Management and
23 Budget based upon programmatic and other assumptions
24 set forth in the joint explanatory statement of managers
25 accompanying the conference report on that bill. Reduc-

1 tions (if any) shall occur on the day that each such appro-
2 priation bill is enacted into law. For purposes of the Bal-
3 anced Budget and Emergency Deficit Control Act of 1985
4 and the Congressional Budget Act of 1974, amounts in
5 Deficit Reduction Accounts shall only be used to make the
6 adjustments specified in this subsection.

7 (b) DEFINITION.—As used in this section, the term
8 “appropriation bill” means any general or special appro-
9 priation bill, and any bill or joint resolution making sup-
10 plemental, deficiency, or continuing appropriations.

11 **SEC. 202. DEFICIT REDUCTION ACCOUNTS IN APPROPRIA-**
12 **TION MEASURES AND IN RESCISSION BILLS.**

13 (a) DEFICIT REDUCTION ACCOUNTS.—Title III of
14 the Congressional Budget Act of 1974 is amended by add-
15 ing at the end the following new section:

16 “DEFICIT REDUCTION ACCOUNTS IN APPROPRIATION
17 BILLS AND RESCISSION BILLS

18 “SEC. 314. (a) Any appropriation bill or rescission
19 bill that is being marked up by the Committee on Appro-
20 priations (or a subcommittee thereof) of either House shall
21 contain a line item entitled ‘Deficit Reduction Account’.

22 “(b) Whenever the Committee on Appropriations of
23 either House reports an appropriation bill, that bill shall
24 contain a line item entitled ‘Deficit Reduction Account’
25 comprised of the following:

1 “(1) Only in the case of any general appropria-
2 tion bill containing the appropriations for Treasury
3 and Postal Service (or resolution making continuing
4 appropriations (if applicable)), an amount equal to
5 the amounts by which the discretionary spending
6 limit for new budget authority and outlays set forth
7 in the most recent OMB sequestration preview re-
8 port pursuant to section 601(a)(2) exceed the sec-
9 tion 602(a) allocation for the fiscal year covered by
10 that bill.

11 “(2) Only in the case of any general appropria-
12 tion bill (or resolution making continuing appropria-
13 tions (if applicable)), an amount not to exceed the
14 amount by which the appropriate section 602(b) al-
15 location of new budget authority exceeds the amount
16 of new budget authority provided by that bill (as re-
17 ported by that committee).

18 “(3) Only in the case of any bill making supple-
19 mental appropriations following enactment of all
20 general appropriation bills for the same fiscal year,
21 an amount not to exceed the amount by which the
22 section 602(a) allocation of new budget authority ex-
23 ceeds the sum of all new budget authority provided
24 by appropriation bills enacted for that fiscal year

1 plus that supplemental appropriation bill (as re-
2 ported by that committee).

3 “(c)(1) Any amendment which is offered to reduce
4 budget authority to an appropriation bill during its consid-
5 eration by the Committee on Appropriations (or any sub-
6 committee thereof) of either House of Congress or by ei-
7 ther House may increase the amount placed in the Deficit
8 Reduction Account by an amount which does not exceed
9 the reduction in budget authority contained in the amend-
10 ment. Any amendment to rescind budget authority during
11 consideration of any bill by the Committee on Appropria-
12 tions (or any subcommittee thereof) of either House of
13 Congress or by either House may increase the amount
14 placed in the Deficit Reduction Account by an amount
15 which does not exceed the increase in the rescission con-
16 tained in the amendment.

17 “(2) Whenever any amendment referred to in para-
18 graph (1) is agreed to increasing the amount contained
19 in the Deficit Reduction Account, then the line item enti-
20 tled ‘Deficit Reduction Account’ shall be increased by that
21 amount.

22 “(3) Any amendment referred to in paragraph (1)
23 shall identify the program, project, or account which is
24 to be reduced in order to increase the Deficit Reduction
25 Account by the amount set forth in that amendment.

1 “(d)(1) Any amendment pursuant to subsection
2 (c)(1) shall be in order even if amending portions of the
3 bill not yet read for amendment with respect to the Deficit
4 Reduction Account and shall not be subject to a demand
5 for a division of the question in the House of Representa-
6 tives (or in the Committee of the Whole) or in the Senate.
7 It shall be in order to further amend the amount placed
8 in the Deficit Reduction Account after that amount has
9 been changed by amendment. It shall not be in order to
10 reduce the amount placed in the Deficit Reduction Ac-
11 count unless it is pursuant to a motion to strike any pro-
12 posed rescission under section 1012(c)(1)(C) or section
13 1012(c)(3)(B). It shall not be in order to offer an amend-
14 ment increasing a Deficit Reduction Account unless the
15 amendment increases rescissions or reduces appropria-
16 tions by an equivalent amount.

17 “(2) During consideration of such an amendment to
18 an appropriation bill in the House of Representatives, if
19 the original motion offered by the floor manager proposed
20 to place an amount in the Deficit Reduction Account that
21 is less than the lower of the level in the House or Senate
22 bill, then pending such original motion and before debate
23 thereon, a motion to insist on disagreement to the amend-
24 ment proposed by the Senate shall be preferential to any
25 other motion to dispose of that amendment. Such a pref-

1 preferential motion shall be separately debatable for one hour
2 equally divided between its opponents and the proponents
3 of the original motion. The previous question shall be con-
4 sidered as ordered on such a preferential motion to its
5 adoption without an intervening motion.

6 “(3) The committee report accompanying any appro-
7 priation bill or rescission bill in the House of Representa-
8 tives or Senate and the joint statement of the managers
9 accompanying the conference report on that bill shall set
10 forth—

11 “(A) for any general appropriation bill, the
12 amount of new budget authority and outlays derived
13 from the difference between the section 602(b) allo-
14 cations and the appropriation bills;

15 “(B) for any appropriation bill (except a gen-
16 eral appropriation bill) but only if all 13 general ap-
17 propriation bills have been enacted for that fiscal
18 year, the amount of new budget authority and out-
19 lays to be derived from the difference between the
20 section 602(a) allocations and the sum of appropria-
21 tion bills for the current year and that bill; and

22 “(C) for any amendment described in sub-
23 section (c)(1) changing the amount in a Deficit Re-
24 duction Account, the program, project, or account
25 assumptions;

13

1 for amounts in the Deficit Reduction Account.

2 “(e) As used in this section—

3 “(1) the term ‘appropriation bill’ means any
4 general or special appropriation bill, and any bill or
5 joint resolution making supplemental, deficiency, or
6 continuing appropriations; and

7 “(2) the term ‘rescission bill’ means any bill
8 which rescinds budget authority, including a bill re-
9 ferred to by section 1012.”.

10 (b) CONFORMING AMENDMENT.—The table of con-
11 tents set forth in section 1(b) of the Congressional Budget
12 and Impoundment Control Act of 1974 is amended by in-
13 serting after the item relating to section 313 the following
14 new item:

“Sec. 314. Deficit reduction accounts in appropriation bills.”.

15 **TITLE III—EXPEDITED RESCIS-**
16 **SIONS AND TARGETED TAX**
17 **BENEFITS**

18 **SEC. 301. EXPEDITED CONSIDERATION OF CERTAIN PRO-**
19 **POSED RESCISSIONS AND TARGETED TAX**
20 **BENEFITS.**

21 (a) IN GENERAL.—Section 1012 of the Congressional
22 Budget and Impoundment Control Act of 1974 (2 U.S.C.
23 683) is amended to read as follows:

3 “SEC. 1012. (a) PROPOSED RESCISSION OF BUDGET
4 AUTHORITY OR REPEAL OF TARGETED TAX BENEFITS.—

12 “(b) TRANSMITTAL OF SPECIAL MESSAGE.—

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1 the total rescissions in that bill. A targeted tax bene-
2 fit may only be proposed to be repealed under this
3 section during the 10-calendar-day period (excluding
4 Saturdays, Sundays, and legal holidays) commencing
5 on the day after the date of enactment of the provi-
6 sion proposed to be repealed.

7 “(2) In the case of an appropriation Act that
8 includes accounts within the jurisdiction of more
9 than one subcommittee of the Committee on Appro-
10 priations, the President in proposing to rescind
11 budget authority under this section shall send a sep-
12 arate special message and accompanying draft bill
13 for accounts within the jurisdiction of each such sub-
14 committee.

15 “(3) Each special message shall specify, with
16 respect to the budget authority proposed to be re-
17 scinded, the following:

18 “(A) The amount of budget authority
19 which he proposes to be rescinded.

20 “(B) Any account, department, or estab-
21 lishment of the Government to which such
22 budget authority is available for obligation, and
23 the specific project or governmental functions
24 involved.

1 “(C) The reasons why the budget authority
2 should be rescinded.

3 “(D) To the maximum extent practicable,
4 the estimated fiscal, economic, and budgetary
5 effect (including the effect on outlays in each
6 fiscal year) of the proposed rescission.

7 “(E) All facts, circumstances, and consid-
8 erations relating to or bearing upon the pro-
9 posed rescission and the decision to effect the
10 proposed rescission, and to the maximum extent
11 practicable, the estimated effect of the proposed
12 rescission upon the objects, purposes, and pro-
13 grams for which the budget authority is pro-
14 vided.

15 Each special message shall specify, with respect to
16 the proposed repeal of targeted tax benefits, the in-
17 formation required by subparagraphs (C), (D), and
18 (E), as it relates to the proposed repeal.

19 “(c) PROCEDURES FOR EXPEDITED CONSIDER-
20 ATION.—

21 “(1)(A) Before the close of the second legisla-
22 tive day of the House of Representatives after the
23 date of receipt of a special message transmitted to
24 Congress under subsection (b), the majority leader
25 or minority leader of the House of Representatives

1 shall introduce (by request) the draft bill accom-
2 panying that special message. If the bill is not intro-
3 duced as provided in the preceding sentence, then,
4 on the third legislative day of the House of Rep-
5 resentatives after the date of receipt of that special
6 message, any Member of that House may introduce
7 the bill.

8 “(B) The bill shall be referred to the Commit-
9 tee on Appropriations or the Committee on Ways
10 and Means of the House of Representatives, as ap-
11 plicable. The committee shall report the bill without
12 substantive revision and with or without rec-
13 ommendation. The bill shall be reported not later
14 than the seventh legislative day of that House after
15 the date of receipt of that special message. If that
16 committee fails to report the bill within that period,
17 that committee shall be automatically discharged
18 from consideration of the bill, and the bill shall be
19 placed on the appropriate calendar.

20 “(C)(i) During consideration under this para-
21 graph, any Member of the House of Representatives
22 may move to strike any proposed rescission or re-
23 scissions of budget authority or any proposed repeal
24 of a targeted tax benefit, as applicable, if supported
25 by 49 other Members.

1 “(ii) It shall not be in order for a Member of
2 the House of Representatives to move to strike any
3 proposed rescission under clause (i) unless the
4 amendment reduces the appropriate Deficit Reduc-
5 tion Account (pursuant to section 314) if the pro-
6 gram, project, or account to which the proposed re-
7 scission applies was identified in the Deficit Reduc-
8 tion Account in the special message under subsection
9 (b).

10 “(D) A vote on final passage of the bill shall be
11 taken in the House of Representatives on or before
12 the close of the 10th legislative day of that House
13 after the date of the introduction of the bill in that
14 House. If the bill is passed, the Clerk of the House
15 of Representatives shall cause the bill to be en-
16 grossed, certified, and transmitted to the Senate
17 within one calendar day of the day on which the bill
18 is passed.

19 “(2)(A) A motion in the House of Representa-
20 tives to proceed to the consideration of a bill under
21 this section shall be highly privileged and not debat-
22 able. An amendment to the motion shall not be in
23 order, nor shall it be in order to move to reconsider
24 the vote by which the motion is agreed to or dis-
25 agreed to.

1 “(B) Debate in the House of Representatives
2 on a bill under this section shall not exceed 4 hours,
3 which shall be divided equally between those favoring
4 and those opposing the bill. A motion further to
5 limit debate shall not be debatable. It shall not be
6 in order to move to recommit a bill under this sec-
7 tion or to move to reconsider the vote by which the
8 bill is agreed to or disagreed to.

9 “(C) Appeals from decisions of the Chair relat-
10 ing to the application of the Rules of the House of
11 Representatives to the procedure relating to a bill
12 under this section shall be decided without debate.

13 “(D) Except to the extent specifically provided
14 in the preceding provisions of this subsection, con-
15 sideration of a bill under this section shall be gov-
16 erned by the Rules of the House of Representatives.

17 “(3)(A) A bill transmitted to the Senate pursu-
18 ant to paragraph (1)(D) shall be referred to its
19 Committee on Appropriations or Committee on Fi-
20 nance, as applicable. That committee shall report
21 the bill without substantive revision and with or
22 without recommendation. The bill shall be reported
23 not later than the seventh legislative day of the Sen-
24 ate after it receives the bill. A committee failing to
25 report the bill within such period shall be automati-

1 cally discharged from consideration of the bill, and
2 the bill shall be placed upon the appropriate cal-
3 endar.

4 “(B)(i) During consideration under this para-
5 graph, any Member of the Senate may move to
6 strike any proposed rescission or rescissions of budg-
7 et authority or any proposed repeal of a targeted tax
8 benefit, as applicable, if supported by 14 other Mem-
9 bers.

10 “(ii) It shall not be in order for a Member of
11 the House or Senate to move to strike any proposed
12 rescission under clause (i) unless the amendment re-
13 duces the appropriate Deficit Reduction Account
14 (pursuant to section 314) if the program, project, or
15 account to which the proposed rescission applies was
16 identified in the Deficit Reduction Account in the
17 special message under subsection (b).

18 “(4)(A) A motion in the Senate to proceed to
19 the consideration of a bill under this section shall be
20 privileged and not debatable. An amendment to the
21 motion shall not be in order, nor shall it be in order
22 to move to reconsider the vote by which the motion
23 is agreed to or disagreed to.

24 “(B) Debate in the Senate on a bill under this
25 section, and all debatable motions and appeals in

1 connection therewith (including debate pursuant to
2 subparagraph (C)), shall not exceed 10 hours. The
3 time shall be equally divided between, and controlled
4 by, the majority leader and the minority leader or
5 their designees.

6 “(C) Debate in the Senate on any debatable
7 motion or appeal in connection with a bill under this
8 section shall be limited to not more than 1 hour, to
9 be equally divided between, and controlled by, the
10 mover and the manager of the bill, except that in
11 the event the manager of the bill is in favor of any
12 such motion or appeal, the time in opposition there-
13 to, shall be controlled by the minority leader or his
14 designee. Such leaders, or either of them, may, from
15 time under their control on the passage of a bill,
16 allot additional time to any Senator during the con-
17 sideration of any debatable motion or appeal.

18 “(D) A motion in the Senate to further limit
19 debate on a bill under this section is not debatable.
20 A motion to recommit a bill under this section is not
21 in order.

22 “(d) AMENDMENTS AND DIVISIONS PROHIBITED.—
23 Except as otherwise provided by this section, no amend-
24 ment to a bill considered under this section shall be in
25 order in either the House of Representatives or the Sen-

1 ate. It shall not be in order to demand a division of the
2 question in the House of Representatives (or in a Commit-
3 tee of the Whole) or in the Senate. No motion to suspend
4 the application of this subsection shall be in order in either
5 House, nor shall it be in order in either House to suspend
6 the application of this subsection by unanimous consent.

7 “(e) REQUIREMENT TO MAKE AVAILABLE FOR OBLI-
8 GATION.—(1) Any amount of budget authority proposed
9 to be rescinded in a special message transmitted to Con-
10 gress under subsection (b) shall be made available for obli-
11 gation on the day after the date on which either House
12 rejects the bill transmitted with that special message.

13 “(2) Any targeted tax benefit proposed to be repealed
14 under this section as set forth in a special message trans-
15 mitted to Congress under subsection (b) shall be deemed
16 repealed unless, during the period described in that sub-
17 section, either House rejects the bill transmitted with that
18 special message.

19 “(f) DEFINITIONS.—For purposes of this section—

20 “(1) the term ‘appropriation Act’ means any
21 general or special appropriation Act, and any Act or
22 joint resolution making supplemental, deficiency, or
23 continuing appropriations;

1 “(2) the term ‘legislative day’ means, with re-
2 spect to either House of Congress, any day of ses-
3 sion; and

4 “(3) The term ‘targeted tax benefit’ means any
5 provision which has the practical effect of providing
6 a benefit in the form of a differential treatment to
7 a particular taxpayer or a limited class of taxpayers,
8 whether or not such provision is limited by its terms
9 to a particular taxpayer or a class of taxpayers.
10 Such term does not include any benefit provided to
11 a class of taxpayers distinguished on the basis of
12 general demographic conditions such as income,
13 number of dependents, or marital status.”.

14 (b) EXERCISE OF RULEMAKING POWERS.—Section
15 904 of the Congressional Budget Act of 1974 (2 U.S.C.
16 621 note) is amended—

17 (1) in subsection (a), by striking “and 1017”
18 and inserting “1012, and 1017”; and

19 (2) in subsection (d), by striking “section
20 1017” and inserting “sections 1012 and 1017”; and

21 (c) CONFORMING AMENDMENTS.—

22 (1) Section 1011 of the Congressional Budget
23 Act of 1974 (2 U.S.C. 682(5)) is amended by re-
24 pealing paragraphs (3) and (5) and by redesignating
25 paragraph (4) as paragraph (3).

1 (2) Section 1014 of such Act (2 U.S.C. 685) is
2 amended—

3 (A) in subsection (b)(1), by striking “or
4 the reservation”; and

5 (B) in subsection (e)(1), by striking “or a
6 reservation” and by striking “or each such res-
7 ervation”.

8 (3) Section 1015(a) of such Act (2 U.S.C. 686)
9 is amended by striking “is to establish a reserve or”,
10 by striking “the establishment of such a reserve or”,
11 and by striking “reserve or” each other place it ap-
12 pears.

13 (4) Section 1017 of such Act (2 U.S.C. 687) is
14 amended—

15 (A) in subsection (a), by striking “rescis-
16 sion bill introduced with respect to a special
17 message or”;

18 (B) in subsection (b)(1), by striking “re-
19 scission bill or”, by striking “bill or” the second
20 place it appears, by striking “rescission bill with
21 respect to the same special message or”, and by
22 striking “, and the case may be,”;

23 (C) in subsection (b)(2), by striking “bill
24 or” each place it appears;

1 (D) in subsection (c), by striking “rescis-
2 sion” each place it appears and by striking “bill
3 or” each place it appears;

4 (E) in subsection (d)(1), by striking “re-
5 scission bill or” and by striking “, and all
6 amendments thereto (in the case of a rescission
7 bill)”;

8 (F) in subsection (d)(2)—

9 (i) by striking the first sentence;

10 (ii) by amending the second sentence
11 to read as follows: “Debate on any debat-
12 able motion or appeal in connection with
13 an impoundment resolution shall be limited
14 to 1 hour, to be equally divided between,
15 and controlled by, the mover and the man-
16 ager of the resolution, except that in the
17 event that the manager of the resolution is
18 in favor of any such motion or appeal, the
19 time in opposition thereto shall be con-
20 trolled by the minority leader or his des-
21 ignee.”;

22 (iii) by striking the third sentence;
23 and

24 (iv) in the fourth sentence, by striking
25 “rescission bill or” and by striking

“amendment, debatable motion,” and by inserting “debatable motion”;

(G) in paragraph (d)(3), by striking the second and third sentences; and

(H) by striking paragraphs (4), (5), (6), and (7) of paragraph (d).

(d) CLERICAL AMENDMENTS.—The item relating to section 1012 in the table of sections for subpart B of title X of the Congressional Budget and Impoundment Control Act of 1974 is amended to read as follows:

“Sec. 1012. Expedited consideration of certain proposed rescissions and targeted tax benefits.”.

TITLE IV—TREATMENT OF EMERGENCY SPENDING

SEC. 401. TREATMENT OF EMERGENCY SPENDING.

(a) EMERGENCY APPROPRIATIONS.—Section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended—

(1) by inserting “(which statute contains no other appropriation for any other matter, including another emergency)” after “statute”; and

(2) by adding at the end the following new sentence: “However, OMB shall not adjust any discretionary spending limit under this clause for any statute that designates appropriations as emergency requirements if that statute contains an appropriation

1 for any other matter, event, or occurrence, including
2 another emergency, but that statute may contain
3 other offsetting provisions that reduce spending or
4 nonemergency appropriations for the designated
5 emergency.”.

6 (b) **EMERGENCY LEGISLATION.**—Section 252(e) of
7 the Balanced Budget and Emergency Deficit Control Act
8 of 1985 is amended—

9 (1) in its first sentence by inserting “(which
10 statute contains no other appropriation for any other
11 matter, including another emergency)” after “stat-
12 ute”; and

13 (2) by adding at the end the following new sen-
14 tence: “However, OMB shall not designate any such
15 amounts of new budget authority, outlays, or re-
16 ceipts as emergency requirements in the report re-
17 quired under subsection (d) if that statute contains
18 any other matter, event, or occurrence, including an-
19 other emergency, but that statute may contain other
20 offsetting provisions that reduce spending or non-
21 emergency appropriations for the designated emer-
22 gency.”.

23 (c) **NEW POINT OF ORDER.**—Title IV of the Congres-
24 sional Budget Act of 1974 is amended by adding at the
25 end the following new section:

1 "POINT OF ORDER REGARDING EMERGENCIES

2 "SEC. 408. It shall not be in order in the House of
3 Representatives or the Senate to consider any bill or joint
4 resolution containing an emergency designation for pur-
5 poses of section 251(b)(2)(D) or 252(e) of the Balanced
6 Budget and Emergency Deficit Control Act of 1985 if it
7 also provides an appropriation for any other item (includ-
8 ing another emergency) or contains any other matter (in-
9 cluding another emergency).".

10 (d) CONFORMING AMENDMENT.—The table of con-
11 tents set forth in section 1(b) of the Congressional Budget
12 and Impoundment Control Act of 1974 is amended by in-
13 serting after the item relating to section 313 the following
14 new item:

"Sec. 408. Point of order regarding emergencies.".

HOUSE RESOLUTIONS

January 5, 1993

[From the Congressional Record page H85]

LA

103D CONGRESS
1ST SESSION**H. J. RES. 4**

Proposing an amendment to the Constitution of the United States allowing
an item veto in appropriations bills.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 5, 1993

Mr. ALLARD (for himself, Mr. ROHRABACHER, Mr. EWING, Mr. GOSS, Mr. RAMSTAD, Mr. BLILEY, Mr. BAKER of Louisiana, Mr. GILLMOR, Mr. THOMAS of Wyoming, Mr. FAWELL, Mr. SCHAEFER, Mr. MCCANDLESS, Mr. OXLEY, Mr. SOLOMON, Mr. PENNY, Mr. HALL of Texas, Mr. ZELIFF, Mr. SAM JOHNSON of Texas, Mr. GALLEGLY, Mr. ZIMMER, Mr. BAKER of California, Mr. SMITH of New Jersey, Mr. BURTON, Mrs. MEYERS of Kansas, Mr. DUNCAN, Mr. SMITH of Texas, Mr. PACKARD, Mr. BEREUTER, Mr. SMITH of Oregon, Mr. BARRETT of Nebraska, Mr. DOOLITTLE, Mr. QUILLEN, Mr. CRAPO, Mr. WALSH, Mr. BOEHNER, Mr. BARTON, Mr. UPTON, Mr. PETRI, Mr. HANSEN, Mr. STUMP, Mr. HUNTER, Mr. HEFLEY, Mr. CONDIT, Mr. TALENT, Mr. SAXTON, Mrs. BENTLEY, and Mr. PETE GEREN of Texas) introduced the following joint resolution; which was referred to the Committee on the Judiciary

JOINT RESOLUTION

Proposing an amendment to the Constitution of the United
States allowing an item veto in appropriations bills.

1 *Resolved by the Senate and House of Representatives*
2 *of the United States of America in Congress assembled*
3 *(two-thirds of each House concurring therein), That the fol-*

1 Following article is proposed as an amendment to the Con-
2 stitution, which shall be valid to all intents and purposes
3 as part of the Constitution when ratified by the legisla-
4 tures of three-fourths of the several States:

5 “ARTICLE —

6 “SECTION 1. The President shall have the power to
7 disapprove any appropriation or provision and approve any
8 other appropriation or provision in the same appropriation
9 bill. In such case he shall, in signing the bill, designate
10 the appropriations and provisions disapproved, and shall
11 return a copy of such appropriations and provisions, with
12 his objections, to the House in which the bill shall have
13 originated; and the same proceedings shall then be had
14 as in the case of other bills disapproved by the President.

15 “SECTION 2. This article shall be inoperative unless
16 it shall have been ratified as an amendment to the Con-
17 stitution by the legislatures of three-fourths of the several
18 States within seven years from the date of its submis-
19 sion.”.

[From the Congressional Record pages E23-24]

LINE-ITEM VETO

HON. WAYNE ALLARD

OF COLORADO

Mr. ALLARD. Mr. Speaker, today I rise to introduce legislation proposing an amendment to the Constitution of the United States allowing the line-item veto in appropriation bills. This is the same bill that has been introduced by retired Congressman Chalmers Wylie each session for the past 18 years.

Granting the President of the United States the power of the line-item veto is an excellent first step toward meaningful deficit reduction. Admittedly, it alone will not entirely reduce the deficit of our Government, but it will be an invaluable fiscal tool to assist in restraining the spending of Congress.

Today more than ever before the citizens of our Nation are calling for the Government to become more responsible and responsive in their governing. An excellent example of this is to look at the ground swell of support targeted at Congress to pass legislation that grants the President the power of the line-item veto.

Many people will try to convince you that the line-item veto is a new and novel idea, when in reality it has been debated by Congress for nearly 100 years. The enactment of the provisional Constitution of the Confederate States in February 1861, marked the first time a line-item veto appeared in an American constitution. Also, several Southern Governors were given this power after the Civil War.

President Grant noticed this power and how it would help remove the Congress' ability to add "riders" to the budget. These riders, which are still a common practice in today's Government, were undermining the Presidents' power by presenting bills that contained provisions that amounted to several bills.

The introduction of the line-item veto is not new to our Congress. In fact, it has been offered to the House of Representatives as long ago as January 13, 1876. Since that time there have been over 150 bills and resolutions introduced to establish the line-item veto. However, Congress has held hearings on a very few occasions.

Subsequently, only one bill has been reported favorably from committee and only one other has been considered on the floor. A line-item veto amendment to the independent offices appropriations bill in 1938 passed the House by a voice vote, but was rejected by the Senate.

Since that time the closest a line-item veto ever came to being passed was on July 18, 1985, when supporters of S. 43 attempted to bring the measure back to the floor but their attempt failed because of a filibuster against the bill.

Eight different Presidents have expressly supported the line-item veto: Presidents Grant, Hayes, Arthur, Franklin D. Roosevelt, Truman, Eisenhower, Reagan, and Bush. Most recently, President-elect Clinton has expressed that he supports the line-item veto.

President Reagan called for Congress to grant the President this tool for fiscal constraint on numerous occasions. In President Reagan's final address as President on January 14, 1989, he once again

reaffirmed his support for the line-item veto. President Reagan said this of the veto: "My successors should be given the line-item veto, subject to congressional override, to veto the line items in annual appropriations bills, in authorizing legislation that provides or mandates funding for programs, and in revenue bills. Such authority would permit the elimination of substantial waste and would be an effective instrument for enforcing budget discipline."

Lately, enhanced recessions have come to the forefront of political debate for deficit reduction. However, it is important to understand that it is not a line-item veto. In early November, in conversations with President-elect Clinton, House Speaker TOM FOLEY announced that he is planning to offer enhanced rescission legislation as a substitute to the line-item veto. While enhanced rescissions are helpful in controlling spending, I reiterate, they are not the line-item veto. Quite simply, enhanced rescissions is statutory legislation and would take only a simple majority to remove the law from the books, while the line-item veto legislation would be an amendment to the Constitution and would be subject to congressional override by a two-thirds majority.

Moreover, the line-item veto represents an expansion of the President's ability to eliminate or reduce individual items of appropriations. In fact the line-item veto would allow the President to veto individual items in an appropriations bill, while the rest could become law. Further, any vote would be subject to congressional override by a two-thirds majority.

It is important to understand that the line-item veto may not be used to reduce entitlement spending. If the authority is granted to the President he would only have the ability to veto discretionary items in the budget which comprise just 40 percent of the total budget.

Recently, significant steps have been taken towards securing the President the power of the line-item veto, including an effort last year by myself and Congressman CHALMERS WYLIE to discharge House Joint Resolution 4, legislation providing for a constitutional line-item veto, from committee.

Now, more than ever before our constituents are calling for Members of Congress to become more responsible in their spending; to me that means enactment of legislation that authorizes a Presidential line-item veto.

Currently, 43 Governors have the power of the line-item veto. In each of those States they also have a balanced budget requirement. A recent study by the CATO Institute reported that 92 percent of all past and present Governors surveyed support the line-item veto.

If 43 States have successfully granted their Governor the power of the line-item veto as a fiscal tool providing an executive restraint on appropriations and 7 past Presidents, the current President and the President-elect of the United States all have expressly supported this measure. Then why has it been so difficult for Congress to bring this measure to the floor for consideration?

HOUSE RESOLUTIONS

January 5, 1993

[From the Congressional Record page H85]

1A

103D CONGRESS
1ST SESSION

H. J. RES. 7

Proposing an amendment to the Constitution of the United States allowing
an item veto in appropriations bills.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 5, 1993

Mr. ARCHER (for himself, Mr. BEREUTER, Mr. BILIRAKIS, Mr. BOEHNER, Mr. BUNNING, Mr. BURTON, Mr. CLINGER, Mr. COBLE, Mr. COMBEST, Mr. CRANE, Mr. COX, Mr. DOOLITTLE, Mr. FISH, Mr. GALLO, Mr. GILLMOR, Mr. HALL of Texas, Mrs. JOHNSON of Connecticut, Mr. JOHNSON of Texas, Mr. KYL, Mr. LIVINGSTON, Mr. MACHTLEY, Mr. MCCRERY, Mr. McMILLAN, Mr. OXLEY, Mr. PACKARD, Mr. QUILLEN, Mr. RAMSTAD, Mr. SHAYS, Mr. SMITH of Texas, Mr. UPTON, Mr. WOLF, Mr. ZELIFF, Mr. SUNDQUIST, Mr. MOORHEAD, Mr. BONILLA, Mr. PETRI, Mr. GALLEGLY, Mr. GOSS, Mr. HANSEN, Mr. STUMP, Mr. CONDIT, Mr. YOUNG of Florida, Mr. STEARNS, Mr. SAXTON, and Mr. DELAY) introduced the following joint resolution; which was referred to the Committee on the Judiciary

JOINT RESOLUTION

Proposing an amendment to the Constitution of the United
States allowing an item veto in appropriations bills.

- 1 *Resolved by the Senate and House of Representatives*
- 2 *of the United States of America in Congress assembled*
- 3 *(two-thirds of each House concurring therein), That the fol-*

2

1 lowing article is proposed as an amendment to the Con-
2 stitution, which shall be valid to all intents and purposes
3 as part of the Constitution when ratified by the legisla-
4 tures of three-fourths of the several States:

5 “ARTICLE —

6 “SECTION 1. The President shall have the power to
7 disapprove any appropriation or provision and approve any
8 other appropriation or provision in the same appropriation
9 bill. In such case he shall, in signing the bill, designate
10 the appropriations and provisions disapproved, and shall
11 return a copy of such appropriations and provisions, with
12 his objections, to the House in which the bill shall have
13 originated; and the same proceedings shall then be had
14 as in the case of other bills disapproved by the President.

15 “SECTION 2. This article shall be inoperative unless
16 it shall have been ratified as an amendment to the Con-
17 stitution by the legislatures of three-fourths of the several
18 States within seven years from the date of its submis-
19 sion.”.

103D CONGRESS
1ST SESSION

H. J. RES. 25

Proposing an amendment to the Constitution of the United States allowing
an item veto in appropriations bills.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 5, 1993

Mr. EMERSON introduced the following joint resolution; which was referred to
the Committee on the Judiciary

JOINT RESOLUTION

Proposing an amendment to the Constitution of the United
States allowing an item veto in appropriations bills.

1 *Resolved by the Senate and House of Representatives*
2 *of the United States of America in Congress assembled,*
3 *(two-thirds of each House concurring therein), That the fol-*
4 *lowing article is proposed as an amendment to the Con-*
5 *stitution, which shall be valid to all intents and purposes*
6 *as part of the Constitution when ratified by the legisla-*
7 *tures of three-fourths of the several States:*

1 "ARTICLE —

2 "SECTION 1. The President shall have the power to
3 disapprove any appropriation or provision and approve any
4 other appropriation or provision in the same appropriation
5 bill. In such case he shall, in signing the bill, designate
6 the appropriations and provisions disapproved; and shall
7 return a copy of such appropriations and provisions, with
8 his objections, to the House in which the bill shall have
9 originated; and the same proceedings shall then be had
10 as in case of other bills disapproved by the President.

11 "SECTION 2. This article shall be inoperative unless
12 it shall have been ratified as an amendment to the Con-
13 stitution by the legislatures of three-fourths of the several
14 States within seven years from the date of its submis-
15 sion.".

[From the Congressional Record page E14]

LINE-ITEM VETO

HON. BILL EMERSON

OF MISSOURI

Mr. EMERSON. Mr. Speaker, I am introducing two bills today to amend the Constitution and provide some budgetary common sense—one will require a balanced Federal budget; the other will provide line-item veto power for the President.

I have long been a staunch supporter of a balanced budget amendment to the Constitution. I have cosponsored the balanced budget amendment since I came to Congress, but until recently, the amendment was blocked by its opponents. In 1990 and again just recently, the impetus for a balanced budget was so strong that supporters were able to circumvent the committee blockage.

The House voted on the balanced budget amendment last spring, and I was disappointed that it fell nine votes short of the two-thirds majority needed for passage. Some Members of the Congress continue to oppose the balanced budget amendment, claiming that Congress needs fiscal discipline now instead of in the future. I agree with part of that statement wholeheartedly: the Congress does need fiscal discipline now. It should be obvious to all, however, that with deficits for 29 of the last 30 years, Congress simply does not have that discipline.

A constitutional amendment requiring a balanced budget is no substitute for direct action on the part of Congress. But we have seen time and time again that Congress does not have the ability to provide that action, and we need this enforcement mechanism. It's time to just say no—and mean it—to the tax-and-spend policies that have gotten the Government into this mess to begin with.

My rationale for introducing a line-item veto resolution is similar. As long as Congress continues to send the President jam-packed all-encompassing spending bills, the President must often choose between signing unnecessary spending into law on one hand and shutting down the Federal Government on the other. A recent report issued by the General Account Office [GAO] estimated that if the President had had line-item veto authority from 1984 through 1989, the savings would have ranged anywhere from \$7 billion to \$17 billion per year. In this time of high deficits, potential billion dollar savings cannot be ignored.

I am well aware that many statutory versions of the line-item veto will also be introduced today. I am supporting these efforts, because I believe they are steps in the right direction. I do not believe they are strong enough, however. As with the balanced budget experience, Congress has shown time and again that there is no limit to its ingenuity in evading statutory budgetary restrictions. We need these constitutional enforcement mechanisms.

103D CONGRESS
1ST SESSION

H. J. RES. 30

Proposing an amendment to the Constitution allowing an item veto in appropriations.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 5, 1993

Mr. EWING (for himself, Mr. WALSH, Mr. RAMSTAD, Mr. HASTERT, Mr. PACKARD, Mr. GOSS, Mr. ALLARD, Mr. KOLBE, Mr. HERGER, Mr. ZELIFF, Mr. EMERSON, Mr. KING, Mr. BURTON of Indiana, Mrs. MEYERS of Kansas, Mr. CRAPO, Mr. BEREUTER, Mr. UPTON, Mr. BACHUS of Alabama, Mr. BOEHNER, Mr. HUTCHINSON, Mr. LEWIS of Florida, and Mr. TALENT) introduced the following joint resolution; which was referred to the Committee on the Judiciary

JOINT RESOLUTION

Proposing an amendment to the Constitution allowing an item veto in appropriations.

1 *Resolved by the Senate and House of Representatives*
2 *of the United States of America in Congress assembled*
3 *(two-thirds of each House concurring therein), That the fol-*
4 *lowing article is proposed as an amendment to the Con-*
5 *stitution of the United States, which shall be valid to all*
6 *intents and purposes as part of the Constitution if ratified*

1 by the legislatures of three-fourths of the several States
2 within seven years after its submission to the States for
3 ratification:

4 "ARTICLE —

5 "The President may approve, disapprove, or reduce
6 any item of appropriation in the same appropriation bill.
7 In such case he shall, in signing the bill, designate the
8 items disapproved and the items reduced, and shall return
9 a copy of such items, with his objections, to the House
10 in which the bill shall have originated. The same proceed-
11 ings shall then be had as in the case of other bills dis-
12 approved by the President, except that in the case of items
13 disapproved or reduced it shall take approval by three-
14 fifths of each House to become law."

103D CONGRESS
1ST SESSION

H. J. RES. 35

Proposing an amendment to the Constitution allowing an item veto in appropriations.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 5, 1993

Mr. KOLBE introduced the following joint resolution; which was referred to the Committee on the Judiciary

JOINT RESOLUTION

Proposing an amendment to the Constitution allowing an item veto in appropriations.

1 *Resolved by the Senate and House of Representatives*
2 *of the United States of America in Congress assembled (two-*
3 *thirds of each House concurring therein), That the follow-*
4 ing article is proposed as an amendment to the Constitu-
5 tion of the United States, which shall be valid to all intents
6 and purposes as part of the Constitution if ratified by the
7 legislatures of three-fourths of the several States within
8 seven years after its submission to the States for ratifica-
9 tion:

1 "ARTICLE —

2 "The President may approve, disapprove, or reduce
3 any item of appropriation in the same appropriation bill.
4 In such case he shall, in signing the bill, designate the
5 items disapproved and the items reduced, and shall return
6 a copy of such items, with his objections, to the House
7 in which the bill shall have originated. The same proceed-
8 ings shall then be had as in the case of other bills dis-
9 approved by the President, except that in the case of items
10 disapproved or reduced it shall take approval by three-
11 fifths of each House to become law."

[From the Congressional Record pages E55-56]

GIVING THE PRESIDENT LINE-ITEM VETO AUTHORITY

HON. JIM KOLBE

OF ARIZONA

Mr. KOLBE. Mr. Speaker, since coming to Congress, I have supported policies that would restore some order to our fiscal house. One such policy has been giving the President line-item veto authority.

Line-item veto authority is quite simple. It would empower the President to reject specific spending items in an appropriation bill without vetoing the entire bill. Of course Congress can override the line-item veto, in this case with a three-fifths, rather than a two-thirds vote. Under current law, Congress can choose to ignore the President's package of rescissions, or spending cuts, allowing pork barrel spending to go unchallenged.

One notable example of pork barrel spending was the proposal to have American taxpayers spend half a million dollars to refurbish the birthplace of Lawrence Welk last Congress. It is this type of spending mentality that has contributed to a ballooning Federal deficit.

Admittedly, providing the President line-item veto authority is no sure-fire procedural cure to all of our budget woes. But giving the President the ability to get an up or down vote on his proposed cuts is an important tool, one which could make a real difference to a process that seems to defy every attempt at fiscal restraint. According to estimates from President-elect Clinton, it would cut nearly \$10 billion over 4 years. I suspect the psychological restraint it would put on a free-spending Congress might result in even greater savings.

Forty-three States, including Arizona, have provided their Governors with a form of line-item veto authority. Even more a constitutional requirement to balance their State's budget each fiscal year. Why should the Federal Government be any different?

But hope springs eternal. With President-elect Clinton supporting line-item veto, perhaps the Democrat majority in Congress will put partisan rhetoric aside and demonstrate fiscal responsibility by joining Republicans in support of line-item veto authority for the President.

So today, I am introducing legislation to provide the President with line-item veto authority and will work with my colleagues to see this legislation enacted.

103D CONGRESS
1ST SESSION

H. J. RES. 46

Proposing an amendment to the Constitution of the United States allowing
an item veto in appropriations Acts.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 5, 1993

Mr. SOLOMON introduced the following joint resolution; which was referred to
the Committee on the Judiciary

JOINT RESOLUTION

Proposing an amendment to the Constitution of the United
States allowing an item veto in appropriations Acts.

1 *Resolved by the Senate and House of Representatives*
2 *of the United States of America in Congress assembled*
3 *(two-thirds of each House concurring therein), That the fol-*
4 *lowing article is proposed as an amendment to the Con-*
5 *stitution, which shall be valid to all intents and purposes*
6 *as part of the Constitution when ratified by the legisla-*
7 *tures of three-fourths of the several States within seven*
8 *years after the date of its submission to the States for*
9 *ratification:*

2

1 "ARTICLE —

2 "The President may disapprove any item of appro-
3 priation in any bill or resolution presented to him, except
4 any item of appropriation for the national defense of the
5 United States, as determined by legislation enacted by the
6 Congress. If a bill or resolution is approved by the Presi-
7 dent, any item of appropriation contained therein which
8 is not disapproved shall become law. The President shall
9 return with his objections any item of appropriation dis-
10 approved to the House in which the bill or resolution con-
11 taining such item originated. The Congress may, in the
12 manner prescribed under section 7 of article I for Acts
13 disapproved by the President, reconsider any item of ap-
14 propriation disapproved under this article."

103D CONGRESS
1ST SESSION

H. J. RES. 50

Proposing an amendment to the Constitution of the United States allowing the President to veto any item of appropriation or any provision in any Act or joint resolution containing an item of appropriation.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 5, 1993

Mr. STUMP introduced the following joint resolution; which was referred to the Committee on the Judiciary

JOINT RESOLUTION

Proposing an amendment to the Constitution of the United States allowing the President to veto any item of appropriation or any provision in any Act or joint resolution containing an item of appropriation.

1 *Resolved by the Senate and House of Representatives*
2 *of the United States of America in Congress assembled*
3 *(two-thirds of each House concurring therein), That the fol-*
4 *lowing article is proposed as an amendment to the Con-*
5 *stitution of the United States, which shall be valid to all*
6 *intents and purposes as part of the Constitution when*

1 ratified by the legislatures of three-fourths of the several
2 States:

3 "ARTICLE —

4 "SECTION 1. The President may disapprove, in any
5 Act or joint resolution containing an item of appropria-
6 tion, any item of appropriation or any provision. If an Act
7 or joint resolution is approved by the President, any item
8 of appropriation or provision contained in the Act or joint
9 resolution that is not disapproved shall become law. The
10 President shall return, with his objections, any dis-
11 approved item of appropriation or provision to the House
12 in which the Act or joint resolution containing such item
13 or provision originated, and may group such disapproved
14 items or provisions for reconsideration by the Congress.
15 The Congress may reconsider any item of appropriation
16 or provision disapproved under this article in the manner
17 prescribed under section 7 of article I for Acts disapproved
18 by the President. The Congress may consider such dis-
19 approved items or provisions separately or as grouped by
20 the President upon return of the disapproved items, but
21 may not consider such disapproved items or provisions in
22 any other grouping.

23 "SECTION 2. This article shall take effect at noon on
24 the third day of January of the first odd-numbered year
25 beginning after the date of the ratification of this article."

[From the Congressional Record page E20]

LINE-ITEM VETO
HON. BOB STUMP

OF ARIZONA

Mr. STUMP. Mr. Speaker, I am today introducing legislation to give the President line-item authority. The measure I introduce today is identical to House Joint Resolution 55 that I introduced in the 102d Congress.

With the change in administration, many Members who supported line-item veto legislation in the last Congress may be hesitant to do so under a different President. I would like to say to my colleagues that the need to control wasteful and unnecessary spending is even greater today than before, and regardless of the political party which controls the White House, we must work together to put an end to the irresistible urge to meet our parochial needs with taxpayer moneys.

Mr. Speaker, the line-item veto removes the last excuse for allowing special interest pork to slip through in otherwise worthy appropriations bills. The taxpayers have a right to know how such things can happen and who, including the President, shares the blame for our \$4 trillion debt.

103D CONGRESS
1ST SESSION

H. J. RES. 54

Proposing an amendment to the Constitution of the United States to provide for a balanced budget for the United States Government and for greater accountability in the enactment of tax legislation and to allow an item veto of appropriation bills.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 5, 1993

Mr. ZIMMER introduced the following joint resolution; which was referred to the Committee on the Judiciary

JOINT RESOLUTION

Proposing an amendment to the Constitution of the United States to provide for a balanced budget for the United States Government and for greater accountability in the enactment of tax legislation and to allow an item veto of appropriation bills.

1 *Resolved by the Senate and House of Representatives*
2 *of the United States of America in Congress assembled*
3 *(two-thirds of each House concurring therein), That the fol-*
4 *lowing article is proposed as an amendment to the Con-*
5 *stitution of the United States, which shall be valid in all*

1 intents and purposes as part of the Constitution if ratified
2 by the legislatures of three-fourths of the several States
3 within seven years after its submission to the States for
4 ratification:

5 "ARTICLE —

6 "SECTION 1. Prior to each fiscal year, the Congress
7 and the President shall agree on an estimate of total re-
8 cepts for that fiscal year by enactment into law of a joint
9 resolution devoted solely to that subject. Total outlays for
10 that year shall not exceed the level of estimated receipts
11 set forth in such joint resolution, unless two-thirds of the
12 total membership of each House of Congress shall provide,
13 by a rollcall vote, for a specific excess of outlays over esti-
14 mated receipts.

15 "SECTION 2. The public debt of the United States
16 shall not be increased unless two-thirds of the total mem-
17 bership of each House shall provide by law for such an
18 increase by a rollcall vote.

19 "SECTION 3. Prior to each fiscal year, the President
20 shall transmit to the Congress a proposed budget for the
21 United States Government for that fiscal year in which
22 total outlays do not exceed total receipts.

23 "SECTION 4. No bill to increase revenue shall become
24 law unless approved by two-thirds of the total membership
25 of each House by a rollcall vote.

1 “SECTION 5. The provisions of this article are waived
2 for any fiscal year in which a declaration of war is in ef-
3 fect.

4 “SECTION 6. Total receipts shall include all receipts
5 of the United States except those derived from borrowing.
6 Total outlays shall include all outlays of the United States
7 except for those for repayment of the debt principal.

8 “SECTION 7. The President shall have the power to
9 disapprove any appropriation or provision and approve any
10 other appropriation or provision in the same appropriation
11 bill. In such case he shall, in signing the bill, designate
12 the appropriations and provisions disapproved, and shall
13 return a copy of such appropriations and provisions, with
14 his objections, to the House in which the bill shall have
15 originated; and the same proceedings shall then be had as
16 in the case of other bills disapproved by the President.

17 “SECTION 8. Sections 1 through 6 of this article shall
18 take effect beginning with the second fiscal year beginning
19 after its ratification and section 7 of this article shall take
20 effect upon ratification.”.

January 7, 1993

[From the Congressional Record page H114]

LA

103^D CONGRESS
1ST SESSION**H. J. RES. 63**

Proposing an amendment to the Constitution authorizing the President to disapprove or reduce an item of appropriations.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 6, 1993

Mr. POSHARD introduced the following joint resolution; which was referred to the Committee on the Judiciary

JOINT RESOLUTION

Proposing an amendment to the Constitution authorizing the President to disapprove or reduce an item of appropriations.

1 *Resolved by the Senate and House of Representatives*
2 *of the United States of America in Congress assembled*
3 *(two-thirds of each House concurring therein), That the fol-*
4 *lowing article is proposed as an amendment to the Con-*
5 *stitution of the United States, which shall be valid to all*
6 *intents and purposes as part of the Constitution if ratified*
7 *by the legislatures of three-fourths of the several States*

1 within seven years after its submission to the States for
2 ratification:

3 "ARTICLE —

4 "The President may reduce or disapprove any item
5 of appropriation in any Act or joint resolution, except any
6 item of appropriation for the legislative branch of the Gov-
7 ernment. If any Act or joint resolution is approved by the
8 President, any item of appropriation contained therein
9 which is not reduced or disapproved shall become law. The
10 President shall return with his objections any item of ap-
11 propriation reduced or disapproved to the House in which
12 the Act or joint resolution containing such item originated.
13 The Congress may, in the manner prescribed under sec-
14 tion 7 of article I for Acts disapproved by the President,
15 reconsider any item disapproved or reduced under this ar-
16 ticle, except that only a majority vote of each House shall
17 be required to approve an item which has been dis-
18 approved or to restore an item which has been reduced
19 by the President to the original amount contained in the
20 Act or joint resolution."

January 27, 1993

[From the Congressional Record page H269]

LA

103D CONGRESS
1ST SESSION**H. J. RES. 76**

Proposing an amendment to the Constitution of the United States authorizing the President to disapprove or reduce an item of appropriations.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 27, 1993

Mr. CLEMENT (for himself, Mr. MONTGOMERY, Mr. GORDON, Mr. PORTER, Mr. LANCASTER, and Mr. BATEMAN) introduced the following joint resolution; which was referred to the Committee on the Judiciary

JOINT RESOLUTION

Proposing an amendment to the Constitution of the United States authorizing the President to disapprove or reduce an item of appropriations.

1 *Resolved by the Senate and House of Representatives*
2 *of the United States of America in Congress assembled*
3 *(two-thirds of each House concurring therein), That the fol-*
4 *lowing article is proposed as an amendment to the Con-*
5 *stitution of the United States, which shall be valid to all*
6 *intents and purposes as part of the Constitution when*
7 *ratified by the legislatures of three-fourths of the several*

1 States within seven years after the date of its submission
2 for ratification:

3 "ARTICLE —

4 "The President may reduce or disapprove any item
5 of appropriation in any Act or joint resolution, except any
6 item of appropriation for the legislative branch of the Gov-
7 ernment. If any Act or joint resolution is approved by the
8 President, any item of appropriation contained therein
9 which is not reduced or disapproved shall become law. The
10 President shall return with his objections any item of ap-
11 propriation reduced or disapproved to the House in which
12 the Act or joint resolution containing such item originated.
13 The Congress may, in the manner prescribed under sec-
14 tion 7 of article I for Acts disapproved by the President,
15 reconsider any item disapproved or reduced under this ar-
16 ticle, except that only a majority vote of each House shall
17 be required to approve an item which has been dis-
18 approved or to restore an item which has been reduced
19 by the President to the original amount contained in the
20 Act or joint resolution."

LEGISLATION IN THE WAR AGAINST THE DEFICIT

Mr. CLEMENT. Mr. Speaker, today I am introducing two bills in the war against the deficit: No. 1, recorded votes on all appropriations bills; and, No. 2, a line-item veto.

First, I am introducing legislation to require a recorded veto on appropriation bills. In 1991, 33 percent of the votes on appropriation bills were approved by voice vote. For the 102d Congress we appropriated \$680 billion for which there were no recorded votes.

The second bill I am introducing is a resolution proposing a constitutional amendment giving the President line-item veto. I was for it under the Republican administration and I am for it under the Democratic administration.

Mr. Speaker, the most urgent task we face during the 103d Congress is making the Federal budget an instrument of economic growth and fiscal discipline. The legislation I am proposing today will be a powerful weapon in our fight to control the deficit and regain control of the economy.

Mr. Speaker, many of us in the U.S. Congress, and I know the American people, are sick and tired of the fingerpointing. It is unbelievable the number of votes that we have cast on voice votes. I can say to you, well, I do not know how you voted. You can say to me you do not know how I voted. Yet we do business as usual.

It is time in the 103d Congress to change that. We have an opportunity. I hope all Members will sign on as cosponsors of this legislation on recorded votes on appropriation bills and the line-item veto.

[From the Congressional Record pages E183-184]

THE LINE-ITEM VETO WITH SIMPLE MAJORITY TO
OVERRIDE

HON. BOB CLEMENT

OF TENNESSEE

Mr. CLEMENT. Mr. Speaker, the most urgent task we face during the 103d Congress is making the Federal budget an instrument of economic growth and fiscal discipline. Toward that end, I am introducing legislation proposing a constitutional amendment giving the President line-item veto authority on all appropriation bills except for the legislative branch. Under the legislation, Congress would need only a simple majority vote to override the President's veto.

Recently, the White House announced the budget deficit for fiscal year 1993 will be a record \$325 billion. The Office of Management and Budget predicts budget deficits for the next 5 fiscal years to range between \$275 billion to \$325 billion. Clearly, these deficits are unacceptable.

Given these projections, the deficit will grow faster than the gross national product [GNP]—while the Federal Government's debt service costs are barely holding even by that standard. Already the Nation's debt service costs for this fiscal year will total almost \$200 billion, which is nearly equal to what we spend on domestic discretionary programs.

Mr. Speaker, when individuals find they cannot meet the interest on their accumulated debt, the inevitable result is bankruptcy; for the Federal Government the inevitable result is continuing economic turmoil. Perhaps that is why our economy is in such a fragile and weakened state.

In recent years, there has been a serious erosion of public confidence in both the institution of Congress and Government. People see Congress and Government as a monster that keeps growing, interfering in their lives and wasting their tax dollars. A recent Peter Hart Research Poll has shown people believe that 50 percent of Government spending is wasted. Government waste also exacerbates annual Federal deficits.

It is our responsibility as Members of this great institution to initiate badly needed budget reform that proves to the American people that we can make certain that their tax dollars will not be wasted. One way we can do that is by granting the President line-item veto authority. This one action would be an important step toward controlling wasteful Federal spending and restoring confidence in the American people.

Some critics of the line-item veto have complained that this new authority would upset the delicate balance of powers between the President and Congress. That is why I have included a provision that requires only a simple majority vote to override the President's veto.

Presidents Reagan, Bush, and Clinton support the line-item veto and the Governors of 43 States already have this authority. This is not a radical idea. I don't believe our way of life will be jeopardized if we adopt this proposal. But I do think if we don't begin addressing the root causes of the deficit, we will be in big trouble before too long.

Mr. Speaker, let's adopt this legislation and move on with the people's business.

February 3, 1993

[From the Congressional Record page H483]

1A

103D CONGRESS
1ST SESSION**H. J. RES. 91**

Proposing an amendment to the Constitution of the United States authorizing the President to veto an item of appropriation in any Act or resolution containing such an item.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 3, 1993

Mr. FRANKS of Connecticut introduced the following joint resolution; which was referred to the Committee on the Judiciary

JOINT RESOLUTION

Proposing an amendment to the Constitution of the United States authorizing the President to veto an item of appropriation in any Act or resolution containing such an item.

1 *Resolved by the Senate and House of Representatives*
2 *of the United States of America in Congress assembled,*
3 *(two-thirds of each House concurring therein), That the fol-*
4 *lowing article is proposed as an amendment to the Con-*
5 *stitution of the United States, which shall be valid to all*
6 *intents and purposes as part of the Constitution when*
7 *ratified by the legislatures of three-fourths of the several*

2

1 States within 7 years after the date of its submission by
2 the Congress:

3 "ARTICLE—

4 "SECTION 1. The President may disapprove an item
5 of appropriation in any Act or resolution presented by the
6 Congress, except as provided in section 2.

7 "SECTION 2. The President may not disapprove
8 under section 1 an item of appropriation for the oper-
9 ations of the judicial branch of the Federal Government.

10 "SECTION 3. Following disapproval under this article
11 of an item of appropriation, the President shall return
12 such item with objections to the House in which the bill
13 or resolution containing such item originated.

14 "SECTION 4. Following the return of an item of ap-
15 propriation, the Congress may reconsider the item in the
16 manner prescribed under section 7 of article I of the Con-
17 stitution for bills disapproved by the President."

February 18, 1993

[From the Congressional Record page H725]

LA

103D CONGRESS
1ST SESSION**H. J. RES. 115**

Proposing a balanced budget and line-item veto amendment to the
Constitution of the United States.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 18, 1993

Mr. GRAMS introduced the following joint resolution; which was referred to the
Committee on the Judiciary

JOINT RESOLUTION

Proposing a balanced budget and line-item veto amendment
to the Constitution of the United States.

1 *Resolved by the Senate and House of Representatives*
2 *of the United States of America in Congress assembled (two-*
3 *thirds of each House concurring therein), That the follow-*
4 ing article is proposed as an amendment to the Constitu-
5 tion of the United States, which shall be valid to all intents
6 and purposes as part of the Constitution when ratified by
7 the legislatures of three-fourths of the several States with-

1 in seven years after the date of its submission for
2 ratification:

3 "ARTICLE —

4 "SECTION 1. Prior to each fiscal year, Congress shall
5 adopt a statement of receipts and outlays for such fiscal
6 year in which total outlays are not greater than total re-
7 cepts. Congress may amend such statement provided re-
8 vised outlays are not greater than revised receipts. Con-
9 gress may provide in such statement for a specific excess
10 of outlays over receipts by a vote directed solely to that
11 subject in which three-fifths of the whole number of each
12 House agree to such excess. Congress and the President
13 shall ensure that actual outlays do not exceed the outlays
14 set forth in such statement.

15 "SECTION 2. Total receipts for any fiscal year set
16 forth in the statement adopted pursuant to the first sec-
17 tion of this Article shall not increase by a rate greater
18 than the rate of increase in national income in the second
19 prior fiscal year, unless a three-fifths majority of the whole
20 number of each House of Congress shall have passed a
21 bill directed solely to approving specific additional receipts
22 and such bill has become law.

23 "SECTION 3. Prior to each fiscal year, the President
24 shall transmit to Congress a proposed statement of re-

1 receipts and outlays for such fiscal year consistent with the
2 provisions of this Article.

3 “SECTION 4. Congress may waive the provisions of
4 this Article for any fiscal year in which a declaration of
5 war is in effect.

6 “SECTION 5. Total receipts shall include all receipts
7 of the United States except those derived from borrowing
8 and total outlays shall include all outlays of the United
9 States except those for the repayment of debt principal.

10 “SECTION 6. The amount of Federal public debt as
11 of the first day of the second fiscal year beginning after
12 the ratification of this Article shall become a permanent
13 limit on such debt and there shall be no increase in such
14 amount unless three-fifths of the whole number of each
15 House of Congress shall have passed a bill approving such
16 increase and such bill has become law.

17 “SECTION 7. The President shall have power, when
18 any bill, including any vote, resolution, or order, which
19 contains any item of spending authority, is presented to
20 him pursuant to section 7 of article I of this Constitution,
21 to separately approve, reduce, or disapprove any spending
22 provision, or part of any spending provision, contained
23 therein.

24 “When the President exercises this power, he shall
25 signify in writing such portions of the bill he has approved

1 and which portions he has reduced. These portions, to the
2 extent not reduced, shall then become a law. The Presi-
3 dent shall return with his objections any disapproved or
4 reduced portions of a bill to the House in which the bill
5 originated. The Congress shall separately reconsider each
6 such returned portion of the bill in the manner prescribed
7 for disapproved bills in section 7 of article I of this Con-
8 stitution. Any portion of a bill which shall not have been
9 returned or approved by the President within ten days
10 (Sundays excepted) after it shall have been presented to
11 him shall become a law, unless the Congress by their ad-
12 journment prevent its return, in which case it shall not
13 become a law.

14 "SECTION 8. Items of spending authority are those
15 portions of a bill that appropriate money from the Treas-
16 ury or that otherwise authorize or limit the withdrawal
17 or obligation of money from the Treasury. Such items
18 shall include, without being limited to, items of appropria-
19 tions, spending authorizations, authority to borrow money
20 on the credit of the United States or otherwise, dedica-
21 tions of revenues, entitlements, uses of assets, insurance,
22 guarantees of borrowing, and any authority to incur obli-
23 gations.

24 "SECTION 9. Sections 1, 2, 3, 4, 5, and 6 of this Arti-
25 cle shall take effect for the fiscal year 1997 or for the

1 second fiscal year beginning after its ratification, which-
2 ever is later. Sections 7 and 8 of this article shall take
3 effect upon ratification of this article.”.

April 22, 1993

[From the Congressional Record page H2024]

LA

103D CONGRESS
1ST SESSION

H. J. RES. 183

Proposing an amendment to the Constitution of the United States to allow
an item veto of appropriation bills.

IN THE HOUSE OF REPRESENTATIVES

APRIL 22, 1993

Mr. HANCOCK introduced the following joint resolution; which was referred to
the Committee on the Judiciary

JOINT RESOLUTION

Proposing an amendment to the Constitution of the United
States to allow an item veto of appropriation bills.

1 *Resolved by the Senate and House of Representatives*
2 *of the United States of America in Congress assembled (two-*
3 *thirds of each House concurring therein), That the follow-*
4 ing article is proposed as an amendment to the Constitu-
5 tion of the United States, which shall be valid to all intents
6 and purposes as part of the Constitution when ratified by
7 the legislatures of three-fourths of the several States with-

1 in seven years after the date of its submission for ratifica-
2 tion:

3 "ARTICLE —

4 "The President may disapprove any item of appro-
5 priation in any bill. If any bill is approved by the Presi-
6 dent, any item of appropriation contained therein which
7 is not disapproved shall become law. The President shall
8 return with his objections any item of appropriation dis-
9 approved to the House in which the bill containing such
10 item originated. The Congress may, in the manner pre-
11 scribed under section 7 of article I for bills disapproved
12 by the President, reconsider any item disapproved under
13 this article."

August 6, 1993

[From the Congressional Record page H6381]

LA

103D CONGRESS
1ST SESSION

H. J. RES. 251

Proposing an amendment to the Constitution of the United States to provide for budgetary reform by requiring the reduction of the deficit, a balanced Federal budget, the repayment of the national debt, and establishing line item veto authority for the President.

IN THE HOUSE OF REPRESENTATIVES

AUGUST 6, 1993

Mr. ALLARD (for himself and Mr. EWING) introduced the following joint resolution; which was referred to the Committee on the Judiciary

JOINT RESOLUTION

Proposing an amendment to the Constitution of the United States to provide for budgetary reform by requiring the reduction of the deficit, a balanced Federal budget, the repayment of the national debt, and establishing line item veto authority for the President.

1 *Resolved by the Senate and House of Representatives*
2 *of the United States of America in Congress assembled (two-*
3 *thirds of each House concurring therein), That the follow-*
4 *ing article is proposed as an amendment to the Constitu-*
5 *tion of the United States, which shall be valid to all intents*

1 and purposes as part of the Constitution when ratified by
2 the legislatures of three-fourths of the several States with-
3 in seven years after the date of its submission for ratifica-
4 tion:

5 "ARTICLE —

6 "SECTION 1. Except as provided by this Article, be-
7 ginning with the fiscal year 1997 or for the first fiscal
8 year beginning after ratification, whichever is later, the
9 President shall submit a budget of revenues and outlays
10 to Congress, and Congress shall adopt a budget that re-
11 duces the deficit existing the year prior to ratification of
12 this Article by not less than ten percent per year in order
13 to balance the budget within ten fiscal years.

14 "SECTION 2. Except as provided by this Article, be-
15 ginning with the eleventh year beginning after ratification
16 and for every year thereafter, budgeted outlays shall not
17 exceed budgeted revenues.

18 "SECTION 3. Beginning with the eleventh year after
19 ratification, the actual revenues shall exceed actual outlays
20 in order to provide for the reduction of the gross federal
21 debt which is outstanding at the end of the tenth year
22 after ratification.

23 "The amount of such reduction will be equal to the
24 amount required to amortize the debt over the next twenty

1 years, in order to repay the entire debt by the end of the
2 thirtieth year after ratification.

3 "SECTION 4. Congress may waive the provisions of
4 this Article (except for sections 5 and 6) for any fiscal
5 year in which a declaration of war is in effect.

6 "SECTION 5. No bill to increase revenues shall be-
7 come law unless approved by a majority of the total mem-
8 bership of each House of Congress by a roll call vote.

9 "SECTION 6. The President shall have the power to
10 disapprove any appropriation or provision and approve any
11 other appropriation or provision in the same appropriation
12 bill. In such case the President shall, in signing the bill,
13 designate the appropriations and provisions disapproved,
14 and shall return a copy of such appropriations and provi-
15 sions, with the President's objections, to the House in
16 which the bill shall have originated; and the same proceed-
17 ings shall then be had as in the case of other bills dis-
18 approved by the President.

19 "SECTION 7. Congress shall review actual revenues
20 on a quarterly basis and adjust appropriations to assure
21 compliance with this Article.

22 "SECTION 8. For purposes of this Article, revenues
23 shall include all revenues of the United States excluding
24 borrowing and outlays shall include all outlays of the
25 United States excluding repayment of debt principal."

[From the Congressional Record pages E2076-2077]

BALANCE OUR BUDGET

HON. WAYNE ALLARD

OF COLORADO

Mr. ALLARD. Mr. Speaker, today I am introducing legislation that will help Congress get a hold on its spending. Congress has been unsuccessful in all previous statutory attempts to reduce the deficit and balance the budget. For that reason, I am introducing a joint resolution to amend the U.S. Constitution to require the President to propose a budget that reduces the deficit by not less than 10 percent per year in order to balance the budget within 10 years.

Following the 11th year of ratification of this amendment, the President will be required to propose a balanced budget. At such time, this measure will mandate that Congress begin paying down the gross Federal debt in payments that are equal to the amount required to amortize such debt over the next 20 years. This will repay the entire debt by the end of the 30th year after ratification. To help enforce fiscal accountability, I have also included a Presidential line-item veto.

This legislation is founded on the same logic used when buying a house. When you purchase a home you go deeply into debt, but then you take out a mortgage and finance it over a fixed number of years and amortize the amount with a scheduled series of payments to reduce the debt. It takes discipline to make your monthly payment, but you understand that if you do not make the payment you could lose your home. Our Government should operate under that same principle.

We must stop borrowing from future generations to pay for the consumption habits of this generation. Our current rate of spending also must eventually be tied to a debt repayment schedule that has the teeth necessary to balance our budget.

This is tough medicine, but we must begin to make serious strides toward reducing the debt of this Nation.

HISTORICAL BUDGET ACTS

You can't fault Congress for trying to pass statutory legislation to balance the budget, but to date all efforts have failed. Here is a listing of each of Congress' attempt to get ahold of the budget.

The Budget and Accountability Act of 1921.—Required the President to make appropriate recommendations to Congress in the budget whenever the estimates of revenue spending in the budget show a deficit or a surplus. The Act directed the President to recommend "new taxes, loans and other appropriate action" to meet a projected deficit. In 1982 the reference to new taxes and loans was removed.

The Revenue Act of 1964.—This act stated, "to further the objective of obtaining balanced budgets in the near future. Congress by this action recognizes the importance of taking all reasonable means to restrain Government spending and urges the President to declare his accord with this objective."

The Revenue Act of 1978.—This act stated, “and the Federal budget should be balanced in fiscal years 1982 and 1983.”

The Humphrey-Hawkins Act of 1978.—This act stated, “fiscal policies that should establish the share of expanding Gross National Product accounted for by Federal outlays at the lowest level consistent with national needs and priorities, a balanced budget. * * *”

The Byrd Amendment of 1978.—This amendment stated, “beginning with fiscal year 1981, the total budget outlays of the Federal Government shall not exceed its receipts.”

The Temporary Increase in the Public Debt Limit of 1979.—This act required the House and Senate Budget Committees to report balanced budgets by April 15 of 1979, 1980, and 1981. It also required the President to submit alternative proposals for a balanced budget if his budget submission for fiscal year 1981 or 1982 recommended a deficit for either fiscal year.

The Gramm-Rudman-Hollings Act of 1985.—This Act set forth annual deficit targets leading to a balanced federal budget by fiscal year 1991 and established an automatic process for across-the-board spending cuts (sequestration) aimed at keeping the deficit within statutory targets. During the period that the GRH Act has been in effect, sequestration has been triggered five times—once each for fiscal years 1986, 1988, and 1990, and twice for fiscal year 1991. The sequestration reductions made for fiscal year 1986 were voided by court action and later reaffirmed, the reductions for fiscal year 1988 were later rescinded, the reductions for 1991 were applied in one instance to domestic discretionary programs and in another to international discretionary programs (the latter reductions were later rescinded). Sequestration was forestalled for fiscal year 1989 because the estimated deficit was less than the \$10 billion margin-of-error amount.

The Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987.—This act modified GRH and extended the goal of a balanced budget to fiscal year 1993.

The Budget Enforcement Act of 1990.—This act revised the deficit targets in the GRH Act, making the targets adjustable rather than fixed, and extended the sequestration process for two more years—through fiscal year 1995 (although the budget is not required, and is not expected, to be in balance by that time. Additionally, two new procedures enforceable by sequestration were established: (1) adjustable limitations on different categories of discretionary spending funded in the annual appropriations process and (2) a “pay-as-you-go” process to require that increases in direct spending or decreases in revenues due to legislative action are offset so that there is no net increase in the deficit. The 1990 amendments changed the focus of the GRH Act from achieving budgetary balance to controlling the growth of discretionary spending and maintaining deficit neutrality regarding legislative changes in mandatory spending and revenues.

JOINT RESOLUTIONS

February 9, 1994

[From the Congressional Record page H410]

LA

103D CONGRESS
2D SESSION**H. J. RES. 321**

Proposing an amendment to the Constitution of the United States allowing an item veto in appropriations bills and an item veto of contract authority or taxation changes in any other bill.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 9, 1994

Mr. ZIMMER introduced the following joint resolution; which was referred to the Committee on the Judiciary

JOINT RESOLUTION

Proposing an amendment to the Constitution of the United States allowing an item veto in appropriations bills and an item veto of contract authority or taxation changes in any other bill.

1 *Resolved by the Senate and House of Representatives*
2 *of the United States of America in Congress assembled*
3 *(two-thirds of each House concurring therein), That the fol-*
4 *lowing article is proposed as an amendment to the Con-*
5 *stitution of the United States, which shall be valid to all*
6 *intents and purposes as part of the Constitution when*

1 ratified by the legislatures of three-fourths of the several
2 States within seven years after the date of its submission
3 for ratification:

4 "ARTICLE —

5 "The President shall have the power to disapprove
6 in whole or in part any appropriation, any authority for
7 the United States to enter into a contract, or any change
8 in the rate or incidence of taxation on any special class
9 of taxpayers and approve any other provision in the same
10 bill. In such case he shall, in signing the bill, designate
11 the appropriations, contract authority, or tax provisions
12 disapproved, and shall return a copy of such disapproved
13 appropriations, contract authority, or tax provisions, with
14 his objections, to the House in which the bill shall have
15 originated; and the same proceedings shall then be had
16 as in the case of other bills disapproved by the President."

MODIFIED LINE-ITEM VETO

Mr. GUTIERREZ. Mr. Speaker, everyone who has listened to the rhetoric on this floor in the past few weeks knows that the Members of the U.S. Congress are recent converts to the religion of budget restraint.

I rise today to suggest that there is an easy way to test if the spending sinners of the U.S. Congress have truly been converted, or if once again, we are merely speaking in tongues.

That test is called the line-item veto.

Quite simply, if we are serious about reducing our deficit, I believe we must give the President the authority to eliminate waste and unnecessary spending, and we must give him this authority as soon as possible.

Today I am introducing a resolution to call for modified line-item veto legislation to be passed by July 30.

We have all heard a lot of preaching about this issue in this body and during the past election season—but now it is time to stop talking and to begin taking action.

I urge my colleagues to join in supporting this resolution—a resolution that is our opportunity to prove that our budget restraint conversion is not temporary, but that we have become true believers.

CONCURRENT RESOLUTIONS

March 3, 1993

[From the Congressional Record page H974]

IV

103^D CONGRESS
1ST SESSION**H. CON. RES. 58**

To direct the appropriate committees of the House of Representatives and the Senate to report legislation by July 30, 1993, to expand the rescission authority of the President.

 IN THE HOUSE OF REPRESENTATIVES

MARCH 3, 1993

Mr. GUTIERREZ submitted the following concurrent resolution; which was referred to the Committee on Rules

CONCURRENT RESOLUTION

To direct the appropriate committees of the House of Representatives and the Senate to report legislation by July 30, 1993, to expand the rescission authority of the President.

Whereas the fiscal well-being of the Nation requires a greater awareness by Congress and the President of the need to control unrestrained spending, reduce the public debt, and control the deficit;

Whereas the Nation's voters have expressed a desire for a change in many areas of government;

Whereas the severity of the budget deficit crisis requires a short-term modification of congressional budgetary procedures; and

Whereas the House of Representatives and the Senate must act swiftly to alleviate this crisis: Now, therefore, be it

1 *Resolved by the House of Representatives (the Senate*
2 *concurring)*, That the Committee on Rules of the House
3 of Representatives and the Committee on Rules and Ad-
4 ministration of the Senate are each authorized to report
5 legislation by July 30, 1993, to expand the rescission au-
6 thority of the President.

May 4, 1993

[From the Congressional Record page H2247]

IV

103D CONGRESS
1ST SESSION**H. CON. RES. 92**

Directing the Clerk of the House of Representatives to make corrections
in the enrollment of H.R. 1578.

IN THE HOUSE OF REPRESENTATIVES

MAY 4, 1993

Mr. MICHEL submitted the following concurrent resolution; which was referred
jointly to the Committees on House Administration, Government Oper-
ations, and Rules

CONCURRENT RESOLUTION

Directing the Clerk of the House of Representatives to make
corrections in the enrollment of H.R. 1578.

1 *Resolved by the House of Representatives (the Senate*
2 *concurring)*, That in the enrollment of the bill (H.R. 1578)
3 the Clerk of the House of Representatives is directed to
4 make the following corrections:

5 (1) Page 1, line 4, insert "and Targeted Tax
6 Benefits" after "Rescissions".

7 (2) Page 2, line 12, add "AND REPEALS OF
8 TARGETED TAX BENEFITS" before the period.

1 (3) Page 2, line 18, insert “or the repeal of any
2 targeted tax benefit in any revenue Act” imme-
3 diately before the period.

4 (4) Page 2, strike line 20 and all that follows
5 through page 3, line 3, and insert the following:

6 “(1) Not later than 3 days after the date of en-
7 actment of an appropriation Act or revenue Act, as
8 the case may be, the President may transmit to
9 Congress—

10 “(A) a special message proposing to re-
11 scind amounts of budget authority provided in
12 that appropriation Act and include with that
13 special message a draft bill that, if enacted,
14 would only rescind that budget authority; or

15 “(B) a special message proposing to repeal
16 any targeted tax benefit provided in that reve-
17 nue Act, and include with that special message
18 a draft bill that, if enacted, would only repeal
19 that targeted tax benefit.

20 That bill shall clearly identify the amount of budget
21 authority that is proposed to be rescinded for each
22 program, project, or activity to which that budget
23 authority relates.”.

24 (5) Page 4, lines 6 and 7, strike “of the House
25 of Representatives” and insert “or the Committee on

1 Ways and Means of the House of Representatives,
2 as appropriate”.

3 (6) Page 4, line 12, insert “or the Committee
4 on Ways and Means” after “Committee on Appro-
5 priations”.

6 (7) Page 5, line 24, insert “or Committee on
7 Finance, as appropriate” before the period.

8 (8) Page 6, line 24, strike “The” and insert
9 “That”.

10 (9) Page 7, line 2, insert “(in the case of the
11 Committee on Appropriations)” before the comma.

12 (10) Page 10, line 24, strike “and”, and strike
13 the quote marks on page 11, line 3, and on page 11,
14 after line 3, add the following new paragraph:

15 “(3) the term ‘targeted tax benefit’ means any
16 provision which has the practical effect of providing
17 a benefit in the form of a differential treatment to
18 a particular taxpayer or a limited number of tax-
19 payers, whether or not such provision is limited by
20 its terms to a particular taxpayer or a class of tax-
21 payers, but such term does not include any benefit
22 provided to a class of taxpayers distinguished on the
23 basis of general demographic conditions such as in-
24 come, number of dependents, or marital status.”.

1 (11) Page 13, strike the matter between lines
2 5 and 6 and insert the following:

“Sec. 1013. Expedited consideration of certain proposed rescissions and repeals
of targeted tax benefits.”.

3 (12) Page 13, line 11, insert “and targeted tax
4 benefits in any revenue Act” before “that”.

5 (13) Page 13, line 19, after “budget authority”
6 insert “or targeted tax benefits”.

7 (14) Page 14, line 1, insert “or those targeted
8 tax benefits” before the period.

April 1, 1993

[From the Congressional Record page H1856]

IV

House Calendar No. 27

103D CONGRESS
1ST SESSION**H. RES. 149****[Report No. 103-52]**

Providing for the consideration of the bill (H.R. 1578) to amend the Congressional Budget and Impoundment Control Act of 1974 to provide for the expedited consideration of certain proposed rescissions of budget authority.

IN THE HOUSE OF REPRESENTATIVES

APRIL 1, 1993

Mr. DERRICK, from the Committee on Rules, reported the following resolution; which was referred to the House Calendar and ordered to be printed

RESOLUTION

Providing for the consideration of the bill (H.R. 1578) to amend the Congressional Budget and Impoundment Control Act of 1974 to provide for the expedited consideration of certain proposed rescissions of budget authority.

- 1 *Resolved*, That at any time after the adoption of this
2 resolution the Speaker may, pursuant to clause 1(b) of
3 rule XXIII, declare the House resolved into the Committee
4 of the Whole House on the state of the Union for consider-
5 ation of the bill (H.R. 1578) to amend the Congressional

1 Budget and Impoundment Control Act of 1974 to provide
2 for the expedited consideration of certain proposed rescis-
3 sions of budget authority. The first reading of the bill shall
4 be dispensed with. General debate shall be confined to the
5 bill and shall not exceed two hours, with one hour to be
6 equally divided and controlled by the chairman and rank-
7 ing minority member of the Committee on Rules and one
8 hour to be equally divided and controlled by the chairman
9 and ranking minority member of the Committee on Gov-
10 ernment Operations. After general debate the bill shall be
11 considered as read for amendment under the five-minute
12 rule. It shall be in order to consider as an original bill
13 for the purpose of amendment under the five-minute rule
14 the amendment in the nature of a substitute printed in
15 part 1 of the report of the Committee on Rules accom-
16 panying this resolution. The amendment in the nature of
17 a substitute shall be considered as read. No amendment
18 to the amendment in the nature of a substitute shall be
19 in order except those printed in part 2 of the report of
20 the Committee on Rules. Each amendment may be offered
21 only in the order printed, may be offered only by the
22 named proponent or a designee, shall be considered as
23 read, shall be debatable for the time specified in the report
24 equally divided and controlled by the proponent and an
25 opponent, shall not be subject to amendment except as

1 specified in the report, and shall not be subject to a de-
2 mand for division of the question in the House or in the
3 Committee of the Whole. All points of order against the
4 amendments printed in the report are waived. At the con-
5 clusion of consideration of the bill for amendment the
6 Committee shall rise and report the bill to the House with
7 such amendments as may have been adopted. Any Member
8 may demand a separate vote in the House on any amend-
9 ment adopted in the Committee of the Whole to the bill
10 or to the amendment in the nature of a substitute made
11 in order as original text. The previous question shall be
12 considered as ordered on the bill and amendments thereto
13 to final passage without intervening motion except one
14 motion to recommit with or without instructions.

Mr. DERRICK. Committee on Rules. H. Res. 149. A resolution providing for the consideration of the bill (H.R. 1578) to amend the Congressional Budget and Impoundment Control Action of 1974 to provide for the expedited consideration of certain proposed rescissions of budget authority (Rept. 103-52). Referred to the House Calendar.

Committee on Rules. H. Res. 150. A resolution waiving a requirement of clause 4(b) of rule XI with respect to consideration of certain resolutions reported from the Committee on Rules (Rept. 103-53). Referred to the House Calendar.

April 2, 1993

[From the Congressional Record pages H1867-1876]

PROVIDING FOR CONSIDERATION OF H.R. 1578, EXPEDITED RESCISSIONS ACT OF 1993

Mr. DERRICK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 642, and ask for its immediate consideration.

The SPEAKER pro tempore (Mr. MAZZOLI). The gentleman from South Carolina [Mr. DERRICK] is recognized for 1 hour.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from New York [Mr. SOLOMON], pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 149 makes in order the consideration of H.R. 1578, the Expedited Rescissions Act of 1993. The resolution provides for 2 hours of general debate, 1 hour equally divided and controlled by the chairman and ranking minority member of the Committee on Rules, and 1 hour equally divided and controlled by the chairman and ranking minority member of the Committee on Government Operations.

The resolution makes in order as an original bill for the purpose of amendment an amendment in the nature of a substitute printed in part 1 of the report accompanying the resolution.

No other amendment is in order except those printed in part 2 of the report, which shall be considered as read and considered only as follows: First, an amendment in the nature of a substitute by, and if offered by Representative CASTLE or Representative SOLOMON, or a designee, debatable for 1 hour, equally divided and controlled by the proponent and an opponent; and second, an amendment to the Castle-Solomon amendment by, and if offered by Representative MICHEL or a designee, debatable for 30 minutes, equally divided and controlled by the proponent and an opponent.

The amendments are not subject to amendment or to a demand for a division of the question in the House or the Committee of the Whole. The resolution waives all points of order against the amendments, and provides that any Member may demand a separate vote in the House on any amendment to the bill or the amendment in the nature of a substitute made in order as original text.

A waiver of clause 7 of rule 16—germaneness—is provided to the Michel amendment to the Castle-Solomon substitute printed in the

report accompanying this resolution. This waiver is solely provided to the Michel amendment as it pertains to the Castle-Solomon substituted.

Finally, the resolution provides for one motion to recommit, with or without instructions.

Mr. Speaker, in the publication entitled "A Vision of Change for America," the President outlines a plan to restore the American dream for us and our children.

The President's plan represents a drastic change from the status quo. The President wants to reject the policies and practices of the past which have quadrupled our debt and left many Americans believing their Government doesn't work. The people want change, and the President's program offers change for the betterment of our Nation.

The legislation made in order by this rule would give the President one of the key changes he has sought, and which I believe we desperately need: a modified line-item veto.

Mr. Speaker, we all know wasteful spending sometimes occurs because individual items escape scrutiny by being submerged in large appropriations bills.

Under current procedures a President cannot strike out individual items in appropriations acts. He must sign or veto the whole act, whatever the consequences. H.R. 1578 would give the President an option he does not now have.

Under H.R. 1578, within 3 days of signing an appropriations act the President could send the House a message and bill proposing to rescind, or cancel, individual spending items in that act.

The President's proposal would be referred to the Appropriations Committee. That committee must report it to the floor without amendment within 7 days. The House must vote, up or down, on the President's bill within 10 days of introduction. During this time the funds would not be spent. If the bill passed the House, it would go to the Senate for expedited consideration there, and if passed by the Senate, on to the President for his signature.

To avoid the possibility a President might use this procedure not primarily to reduce the deficit, but instead to promote his own pet projects, H.R. 1578 would allow the House Appropriations Committee to report to the House, simultaneously with the President's bill, an alternative. To qualify for expedited consideration, the committee's bill must propose to cancel spending from the same appropriations act the President drew his rescissions from, and it must propose to cancel an amount of spending equal to or exceeding the President's total.

If the committee reported an alternative, the House would first vote on the President's bill; if adopted by a majority vote, the President's bill would go to the Senate for expedited consideration and the alternative would not be in order. If the House rejected the President's bill and passed the alternative, that bill would go to the Senate instead.

The Senate Appropriations Committee could also report an alternative bill. But it would not be in order to consider anything but the President's bill until the Senate first voted on and rejected the President's bill. The President is thus guaranteed a vote on this proposal.

If both Houses ultimately passed an alternative bill instead, then those funds would be canceled. Thus, under H.R. 1578, if either the President's bill or an alternative bill passed both Houses, spending will be cut and the American taxpayer would be the big winner.

Mr. Speaker, the President supports H.R. 1578 because he believes with a modified line-item veto like this in place millions and perhaps billions of dollars might be saved. These are dollars which our taxpayers worked and earned by the sweat of their brows and sent to Washington to fund the essential activities of Government, not to be squandered on ridiculous pork-barrel projects.

This bill gives the President the tool he needs to block pork-barrel projects like asparagus research, renovating Lawrence Welk's birthplace, or studying the well-being of middle-class lawyers or the aggressive tendencies of fish in Nicaragua. It will let the President force Congress on the record regarding researching cockroaches, or why people fall in love, or building schools for North Africans in France.

Mr. Speaker, these kinds of pork are an embarrassment which we can clearly not afford. The American people won't stand for them, and we don't have any business asking them to do so.

Quite simply, H.R. 1578 will create accountability. No longer will a President be able to sign an appropriations act containing wasteful items and claim he was powerless to block them.

No longer will Congress be able to force upon the President the dilemma of vetoing an entire act and shutting down the Government, or signing the whole thing, bacon and all. If Congress wants to appropriate funds for these purposes, then a majority of either House need only stand up and be counted. If the President does not want them, then he has the responsibility to send them back. It is that simple, and I believe it will work.

Mr. Speaker, last year I held extensive hearings in my subcommittee on various legislative line-item veto proposals, and brought the forerunner of H.R. 1578 to the floor, where it passed by a vote of 312 to 97. The bill before us today is, in my opinion, a better bill than last year's. It deserves our strong support.

A waiver of clause 7 of rule 16—germaneness—is provided to the Michel amendment to the Castle-Solomon substitute printed in the report accompanying this resolution. This waiver is solely provided to the Michel amendment as it pertains to the Castle-Solomon substitute.

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This bill gives the President the tool he needs to block pork-barrel projects like asparagus research, renovating Lawrence Welk's birthplace, or studying the well-being of middle-class lawyers or the aggressive tendencies of fish in Nicaragua. It will let the President force Congress on the record regarding researching cockroaches, or why people fall in love, or building schools for North Africans in France.

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The rule also deserves our strong support. It makes in order a Republican substitute, an amendment thereto offered by the minority leader or his designee, and it does not restrict the motion to recommit. Many issues have already been worked out; the rule will allow a full airing of the remainder. I urge all Members to support the rule and the bill.

Mr. Speaker, I reserve the balance of my time.

Mr. SOLOMON. Mr. Speaker, I thank my colleague, the gentleman from South Carolina, for yielding us half of his time.

Mr. Speaker, I hope that in the next 5 hours that we are going to be able to enlighten the American people on the need for a true line item veto and the problems that led up to the need for it.

Mr. Speaker, this resolution before us which makes in order this expedited rescission bill, is the tenth consecutive modified closed or closed rule reported in this Congress. Not one rule has been open unfortunately.

Over the last 3 months, we on the minority side have been trying to impress upon our Democrat colleagues and on the American people back home as well that when we complain about closed rules we are not simply engaging in some kind of procedural or partisan tantrum. We are instead trying to warn against what we perceive as the deliberate decline of democracy in this House.

Now I will readily admit that to the average American a closed rule probably does not mean anything, but, if we ask that same citizen taxpayer how he or she would feel if they knew that their elected Representative was not allowed to fully participate in the legislative process in the House of Representatives, the anger would begin to rise, and it is beginning to rise, my colleagues. I suspect that their first reaction would be, "Why are we paying them those big salaries if they can't even offer amendments to legislation on behalf of me, our town, our State and our country?"

Why do we call them lawmakers if they do not have any real voice in making laws? And that is what is happening on this floor, ladies and gentlemen.

So all of a sudden the term "closed rule" has some real meaning for the people back home, when they realize that individual people

sitting here to represent them cannot even offer amendments on the floor of this House. They begin to realize that their Representative really has no say about what goes on here in Washington. Boy, I would be ashamed if that were me.

Today we have a modified closed rule that allows for just two amendments. And, while one of those two amendments has my name on it along with a group of our freshman Republicans, and is a true line-item veto, I just cannot support this rule.

Instead, I offered in the Rules Committee a substitute open rule that would have specifically allowed our Republican leader to amend the so-called Spratt bill by including tax provisions under the President's expedited rescission authority.

It would also have allowed the freshman Democrats to offer a substitute extending that authority to all tax expenditures and make this rescission authority permanent. Not just 2 years, but permanent, no matter who the President is. That amendment was presented to the Rules Committee on the debt limit bill by Representatives MINGE, DEAL, and INSLEE as an alternative to the Stenholm-Spratt approach.

In other words, they were attempting to put some teeth in this toothless tiger. I was excited and I commended them for being up there testifying before our Committee on Rules. But they were denied the right by their own Democrat Party to offer that amendment, because the Democrats killed my request for an open rule.

Mr. Speaker, that is the way the House use to operate, full and open debate on amendments and deliberation, and we used to produce good legislation. The American people at that time held us in such esteem that about 85 percent of the American people approved of what we were doing here. Now look at the esteem they hold us in. Sometimes it is embarrassing to go home.

Nowadays, however, we are being asked to confine ourselves to partisan boxes. You can have your one partisan amendment, we will have our one partisan alternative, and heaven forbid if any other Member of this House should have an independent idea.

Mr. Speaker, I do not think it is unreasonable on something as important as the issue of the expedited rescission versus the true line-item veto to have an open amendment process. I do not think it is unreasonable to have a process whereby we try to reach a consensus approach that takes the best from both parties and from all Members regardless of political party. Really, that is what representative government is.

And yet, we are told that this rule and the bill it makes in order was in truth brought to this floor as a trade-off to gain votes for the debt limit bill yesterday.

The truth in that is evident when you consider that the main amendment made in order by this rule as the base bill was not even before the Rules Committee when we took testimony yesterday. It was not the subject of hearings in the Government Operations Committee earlier this year, and I see the ranking Republican sitting over there, or in the Rules Committee late last year that I am the ranking Republican on.

No, this amendment, which showed up on the Rules Committee's doorstep late in the day yesterday, like an abandoned baby of unknown parentage, was suddenly embraced by the majority as a

long lost son, though it bears little resemblance to any of the family members that were paraded before our committee earlier in the day.

I am not exactly sure what that makes this new bill, though I am told this bird of a different feather strongly resembles a cardinal. You know what a cardinal is. It has a red hat.

Mr. Speaker, I do not want to dwell on the substance of this new bill, in part because no one testified on its behalf to describe it for us, so I don't think there is anybody here that can explain it today.

Even the chairman of the Rules Committee admitted to me during debate yesterday that he doubted there was any knowledgeable authority who could explain this to our satisfaction or understanding. Yet it is in the base text of this bill.

Ironically, this new bird which was reportedly hatched in a cardinal's nest, and for those people who might be listening, you know cardinals are referred to in this House as appropriators, they set up a system which could ultimately lead to violating the rules and precedents of this House which recognize the supremacy of who, the College of Cardinals, the House Committee on Appropriations.

The reason is that under the House rules all appropriation bills must originate in the House. You all know that. You have read the Constitution. Like appropriation bills, rescission bills which strike previously appropriated funds originate under the jurisdiction of the House Committee on Appropriations.

That is not only how we have operated historically, but that is what the Constitution says.

While this bill initially recognizes that any Presidential rescission bill must originate in the House of Representatives, all that changes if the House passes the President's rescission bill and the Senate does not.

You folks had better go back and think about that, especially you appropriators. You have bitten off more than you can chew.

When that happens, it is in order for the Senate to originate an alternative rescission bill. That means that the Senate bill could be "blue slipped" back to the Senate without a vote because it violates the constitutional prerogatives of this House.

In short, we would be left with no rescission bill at all. The President's rescission bill would be dead. The Senate rescission bill could well be in violation of the Constitution.

And the only real winners would be those who have a voracious appetite for pork. That's spelled o-i-n-k, and is pronounced: "Oink, oink, oink."

Do I make myself perfectly clear?

This new bill, in short, is a gotcha bill. And the reality of this rule is that you now have a choice between a real line-item veto preferred by our side, and by many Members of your side of the aisle as well, and I see some of them sitting over there, and I applaud them for it, and the fiscal equivalent of what I call hog steroids on your side. In clearer terms, that means hog wash.

Mr. Speaker, I tend to doubt that House appropriators seriously intend to give away this important constitutional prerogative, but that is exactly what this bill does. This bill really ought to go to the Committee on the Judiciary and let them study that ramification.

Mr. Speaker, I would therefore urge my colleagues to vote down this rule. I am one of the Members that came here 15 years ago fighting for a line item veto and am still here 15 years later doing the same thing. I would urge Members to vote down this rule and put pressure on your Democratic leadership and Democratic Committee on Rules to bring us an open rule that will allow us to reach a bipartisan consensus approach to a meaningful line item veto bill that is in the best interests of the American people, 80 percent of whom favor not this bill, but a true line item veto bill.

Mr. Speaker, I would ask Members to please vote no on the rule and let us go back upstairs and let all factions in both political parties be represented here on the floor. That is what America is all about.

Mr. Speaker, I include for the record the rollcall votes taken in the Committee on Rules last night on this rule, some updated data on open versus restrictive rules, and a copy of the open rule we offered in the Committee on Rules last night.

ROLLCALL VOTES IN THE RULES COMMITTEE ON AMENDMENTS TO DRAFT RULE ON H.R. 1578, SPRATT EXPEDITED RESCISSION BILL

1. Open Rule.—Two-hours of general debate (divided equally between Rules & Govt. Ops.); Castle-Solomon amendment in the nature of a substitute, subject to amendment by Michel targeted tax provision amendment; and, if Castle-Solomon is rejected, Michel amendment would be in order to bill, followed by consideration of the Minge substitute for Spratt. All amendments would be subject to debate under the five-minute rule under the normal amendment process meaning other amendments could be offered when amendment tree allows. Points of order would be waived against amendments. Rejected: 3–7. Yeas: Solomon, Dreier and Goss. Nays: Moakley, Derrick, Beilenson, Frost, Wheat, Gordon and Slaughter.

2. Michel Amendment to Spratt.—Adding rescission authority for targeted tax provisions to Stenholm's expedited rescission approach (30-minutes of debate, appropriate waivers). Rejected: 3–8. Yeas: Solomon, Dreier and Goss. Nays: Moakley, Derrick, Beilenson, Frost, Bonior, Wheat, Gordon and Slaughter.

3. Minge-Deal-Inslee Substitute Amendment.—Modified line-item veto—permanent authority to rescind budget authority and tax expenditures, subject to majority approval by both Houses (one-hour of debate; appropriate waivers). Rejected: 3–8. Yeas: Solomon, Dreier and Goss. Nays: Moakley, Derrick, Beilenson, Frost, Bonior, Wheat, Gordon and Slaughter.

4. Clinger Amendment.—to Spratt bill, removes two-year sunset provision. Rejected: 3–8. Yeas: Solomon, Dreier and Goss. Nays: Moakley, Derrick, Beilenson, Frost, Bonior, Wheat, Gordon and Slaughter.

5. Duncan Substitute.—identical to Castle-Solomon except it amends the Budget Act and makes the veto permanent (i.e., no two-year sunset provision). Rejected: 3–8. Yeas: Solomon, Dreier and Goss. Nays: Moakley, Derrick, Beilenson, Frost, Bonior, Wheat, Gordon and Slaughter.

6. Motion to Report Rule.—a modified closed rule making in order just two amendments. Adopted: 8–3. Yeas: Moakley, Derrick,

Beilenson, Frost, Bonior, Wheat, Gordon and Slaughter. Nays: Solomon, Dreier and Goss.

OPEN VERSUS RESTRICTIVE RULES—103D CONGRESS

Rule number and date reported	Rule type	Bill number and subject	Amendments submitted	Amendments allowed	Disposition of rule and date
H. Res. 58—Feb. 2, 1993.	MC	H.R. 1: Family and medical leave.	30 (D-5; R-25)	3 (D-0; R-3)	PQ: 246-176; A: 259-164 (2/3/93)
H. Res. 59—Feb. 3, 1993.	MC	H.R. 2: National Voter Registration Act.	9 (D-1; R-8)	1 (D-0; R-1)	PQ: 248-171; A: 249-170 (2/4/93)
H. Res. 103—Feb. 23, 1993.	C	H.R. 920: Unemployment compensation.	7 (D-2; R-5)	0 (D-0; R-0)	PQ: 243-172; A: 237-178 (2/24/93)
H. Res. 106—Mar. 2, 1993.	MC	H.R. 20: Hatch Act amendments.	9 (D-1; R-8)	3 (D-0; R-3)	PQ: 248-166; A: 249-163 (3/3/93)
H. Res. 119—Mar. 9, 1993.	MC	H.R. 4: NIH Revitalization Act of 1993.	13 (D-4; R-9)	8 (D-3; R-5)	PQ: 247-170; A: 248-170 (3/10/93)
H. Res. 132—Mar. 17, 1993.	MC	H.R. 1335: Emergency supplemental approps.	37 (D-8; R-29)	1 (not submitted) (D-1; R-0).	A: 240-185 (3/18/93)
H. Res. 133—Mar. 17, 1993.	MC	H. Con. Res. 64: Budget Resolution.	14 (D-2; R-12)	4 (1-D not submitted) (D-2; R-2).	PQ: 250-172; A: 251-172 (3/18/93)
H. Res. 138—Mar. 23, 1993.	MC	H.R. 670: Family planning amendments.	20 (D-8; R-12)	9 (D-4; R-5)	PQ: 252-164; A: 247-169 (3/24/93)
H. Res. 147—Mar. 31, 1993.	C	H.R. 1430: Increase public debt limit.	6 (D-1; R-5)	0 (D-0; R-0)	
H. Res. 149—Apr. 1, 1993.	MC	H.R. 1578: Expedited Rescission Act of 1993.	5 (D-1; R-4)	3 (D-1; R-2)	

Code: C-Closed; MC-Modified closed; MO-Modified open; D-Democrat; R-Republican; PQ-Previous question; A-Adopted; F-Failed.

H.R. 1578—PROVIDING AN OPEN RULE FOR THE EXPEDITED RESCISSION BILL

Strike all after the resolving clause and insert in lieu thereof the following: "That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 1578) to amend the Congressional Budget and Impoundment Control Act of 1974 to establish procedures for the expedited consideration by the Congress of certain proposals by the President to rescind amounts of budget authority, and the first reading of the bill shall be dispensed with. After general debate which shall be confined to the bill and the amendments made in order by this resolution, and which shall not exceed two hours, one hour to be equally divided and controlled by the chairman and ranking minority member of the Committee on Government Operations, and one hour to be equally divided and controlled by the chairman and ranking minority member of the Committee on Rules, the bill shall be considered for amendment under the five-minute rule. It shall first be in order to consider the amendment in the nature of a substitute printed in the report of the Committee on Rules to accompany this resolution by, and if offered by Representative Castle of Delaware or Rep-

representative Solomon of New York, or a designee, said amendment shall be considered as read, and all points of order against said amendment are hereby waived. It shall first be in order to consider an amendment to said amendment printed in the report of the Committee on Rules by, and if offered by, Representative Michel of Illinois, or a designee, and, if said amendment in the nature of a substitute is not agreed to, it shall immediately be in order to consider the second amendment printed in the report of the Committee on Rules to accompany this resolution by Representative Michel to the bill; both of said amendments by Representative Michel shall be considered as read, and all points of order against said amendments are hereby waived. It shall also be in order, if the amendment in the nature of a substitute previously referred to is not adopted, to consider an amendment in the nature of a substitute printed in the report of the Committee on Rules to accompany this resolution, by and if offered by Representative Minge of Minnesota, or a designee, said amendment shall be considered as read, and all points of order against said amendment are hereby waived. At the conclusion of the consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit, with or without instructions.”.

EXPLANATION

This amendment to the proposed rule provides for a two-hour, open rule for the consideration of H.R. 1578, the “Expedited Consideration of Proposed Rescissions Act of 1993.” The rule first makes in order a Castle-Solomon line-veto amendment in the nature of a substitute, which would first be subject to a Michel amendment on targeted tax provisions. If the amendment in the nature of a substitute is rejected, a similar Michel amendment would first be in order to the introduced bill; and, it would then be in order to consider the Minge amendment in the nature of a substitute. The above amendments and other amendments would be considered under an open amendment process under the five-minute rule.

Mr. DERRICK. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the gentleman from New York [Mr. SOLOMON] being the constitutional scholar that he is, must understand and know that the Constitution says nothing about appropriation bills. It says revenue bills.

Mr. Speaker, for the purpose of debate only, I yield 3 minutes to the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Speaker, I support the rule, and I oppose the bill. When I hear people talk about the Constitution of the United States and Congress, I want to vomit. We are about as far away from the Constitution as we can get.

For all the new Members, check this out. In 1985 Congress passed a law that not only stripped the power from the people, but gave the Comptroller General, the General Accounting Office, the power to raise taxes and cut spending.

The Supreme Court had to strike it down.

I oppose the bill for one reason. I do not care if the President is Democrat or Republican. I am not for stripping the powers of the people any further and increasing, expanding the powers of the Chief Executive and the courts.

The people are to draft all laws, regulate commerce with foreign nations, raise taxes, pass budgets.

The President has the constitutional power to veto. Nowhere in the Constitution does the President have the power to micromanage the people's laws and budgets.

I oppose this wimp Congress action that is so afraid of the debt they try to delegate it to the guy from OMB so that when the fecal matter hits the fan, they could say, "It wasn't me. It was the guy behind the tree from OMB."

The sheriff does not buy it. I want to say this to the Congress, and I want to caution the Congress, there has never been a nation of free people overthrown by a duly elected representative of the people. Let me say, for every action there is an equal, an opposite reaction.

When we take away the power of the people, we send it somewhere. And it goes to that Chief Executive or to those courts. And the people in America are so upset with their government, they are taking it out on themselves. And we are allowing it.

I am going to vote for the rule. The people want the Democrats to govern. The Democrats bring the rule. But I am not going to rubber stamp any bills that would weaken the power of the people. And I think what I should be saying should not be falling on deaf ears.

I thank the gentleman for yielding time to me and would like to say this: We keep talking about the Constitution. We ought to look at regulating commerce with foreign nations. And if we are going to balance the budget, we will not do it by giving a President a little red ink pen. We will do it by straightening out our balance of trade and putting Americans back to work.

Mr. SOLOMON. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. CLINGER], the ranking Republican on the Committee on Government Operations where this bill should have originated.

Mr. CLINGER. Mr. Speaker, I rise in strong opposition to this rule. It is more than a little disappointing that the very first bill to be brought to the floor from the Government Operations Committee during the 103d Congress, the very first bill that I will be managing as the ranking Republican of the committee, was never voted on by the committee, never debated by the committee, never subjected to normal and appropriate committee procedures. That is not the way to do business and I don't intend to begin my tenure as the committee's ranking member by supporting such a travesty.

Yesterday, I testified before the Rules Committee expressing my concerns with this distortion of the committee process. Although the Government Operations Committee conducted one legislative

hearing this year on the general issue of enhanced rescission authority, no regular mark up was held and no opportunity was given to Members on either side of the aisle to offer amendments, although several of the minority members including myself had an interest in offering amendments.

It is too easy for the majority party, with a Democrat in the White House and control of both Houses of Congress, to abuse the House rules and minority rights by bypassing the normal committee procedures and then allowing few amendments to be considered on the floor. This practice effectively cuts off any opportunity for members from either side of the aisle to participate in the legislative process. It should be in the interest of all House Members that legislation like this be fully considered by the appropriate committees before it reaches consideration on the House floor.

Because it was not, and because we have not been given the opportunity to fully offer amendments, I urge the rejection of this rule.

Mr. DERRICK. Mr. Speaker, for the purpose of debate only, I yield 2 minutes and 30 seconds to the gentleman from Ohio [Mr. FINGERHUT].

Mr. FINGERHUT. Mr. Speaker, I thank the gentleman for yielding time to me.

In the campaign, there was no issue that inspired more discussion among my constituents than the subject of the line-item veto. Both pro and con, debates over whether the President should have the additional power or whether he should not have the additional power.

Mr. Speaker, in just 3 months here, I am more convinced than ever that this is a necessary step. In these days of \$1.5 trillion budgets and a far-reaching national government, it is simply not good enough to say that 200-plus years ago the Founding Fathers did not envision this particular distribution of responsibility between the executive and the legislative branch.

It is time for us to bring our procedures into line with the realities of today's government. With a line-item veto, the President will be able to pull out from the avalanche of Federal spending those items that he thinks are inappropriate for the use of taxpayer dollars, and he will be able to force the Congress to come out once again in the light of day, under the glare of the spotlight and decide, separate out from all of the avalanche of Federal spending whether we believe that that particular item is worthy of being sent on taxpayers' dollars.

Mr. Speaker, this debate is on the subject of the rule. Quite frankly, no one has been as outspoken as I have about the need for openness in debate. But I support this rule today for two reasons.

The first is that it fairly frames the question for debate. On an issue as controversial as the line-item veto, that is the responsibility of the Committee on Rules.

For those who want to vote for a modified line-item veto, enhanced rescission, we have that opportunity today. For those who want to vote for the full line-item veto of the gentleman from New York [Mr. SOLOMON] and the gentleman from Delaware [Mr. CASTLE], we will have that opportunity as well.

But most importantly, on a subject as controversial as this, there will never be a procedure that will make everybody happy.

The bottom line is this, and the American people and everyone who supports a line-item veto ought to know it of whatever version, and that is that a vote for this rule brings to the floor of the House of Representatives the line-item veto which so many members of the American public want. And a vote against this rule is a vote against this House of Representatives considering a line-item veto.

I urge support of the rule for supporters of the line-item veto on both sides of the aisle.

Mr. SOLOMON. Mr. Speaker, I yield 4 minutes to the gentleman from Illinois [Mr. FAWELL], chairman of the task force known as "Porkbusters." He has been one of the real outstanding Members who have tried to get a handle on spending in this Congress.

Mr. FAWELL. Mr. Speaker, I rise in opposition to the rule.

It is time to give the President of the United States a greater part to play in the appropriations process which is tilted too much in Congress' favor.

For years Congress has been a profligate overspender. It has not balanced a budget for more than 23 years in a row. It has run up more than \$4.1 trillion of debt. It now incurs \$300 billion per year in interest on that debt. That debt amounts to about \$16,000 per every man, woman, and child in America and equals about 51 percent of our Nation's GDP. Based on what I have witnessed with all the new taxing and spending now going on, our national debt will grow by the trillions over the next 5 years of the budget resolution we just passed.

So, is it not time that Congress gave some increased power to the executive branch in determining spending. We always like to blame Presidents for our overspending. But we know who the spendthrifts are. We should know by now that Congress is in serious need of help in determining spending priorities.

We have a chance today to vote for either the Solomon or the Stenholm rescission plans. Frankly, I would prefer that we inculcate a Presidential rescission plan in the Constitution. Mr. SOLOMON would agree. That way we would have a real line-item veto and Congress could not think up ways in which to wiggle out of spending cuts by passing new laws or waiving rules, something we are very good at doing. Of what we have before us, though, I think the Solomon bill is the better of the two. I say that because the Solomon bill grants direct power to the President to propose a rescission which goes into effect unless the Congress can pass a rescission disapproval bill in 20 days. The rescission disapproval bill can be of course vetoed by the President and Congress then won't be able to reverse the President's rescissions without a two-thirds vote.

Now that is raw meat. Many Members worry about a President misusing such a statutory line-item veto power. But that's akin to a drunken sailor refusing help. We prefer to keep our profligacys to ourselves while still retaining the right to blame Presidents for our overspending.

My good friend, Congressman STENHOLM also has a rescission plan which amends the Congressional Budget Act of 1974. It has good points but one major flaw. It is the same flaw which has made

a wet noodle of our existing Presidential rescission power. I refer to the fact that the Stenholm bill, by amending the Budget Act of 1974, would have its provisions enacted as an exercise of the rule-making power of the House and Senate. Thus, all of its noble and not so noble provisions can be waived, repealed, ignored, and trampled upon in the same manner in which we view the rules of this House so often being waived, repealed, ignored, and trampled upon whenever the majority wills it.

I suppose it will be the Stenholm bill which will survive, to a great extent because of the respect we have for Mr. STENHOLM, but mostly because the Rules Committee and the majority leadership can make mishmash out of it whenever it suits them.

On the other hand, I frankly do not believe the Stenholm bill will ever survive the rigors of Byrd-land, wet-noodle or not, for one can at least bet that if its provisions are monkeyed with—as they will be—they will have Congressman STENHOLM to deal with. And by passing the House, it will enable a lot of us to say we voted for a line-item veto even though it is not a line-item veto. It is, after all, important to be perceived as being for a line-item veto even if one is not.

HOUSE OF REPRESENTATIVES,
Washington, DC.

TAKE IT FROM ONE WHO'S TRIED: "EXPEDITED RESCISSION" PROPOSALS THAT REQUIRE APPROVAL OF CONGRESS DO NOT, AND WILL NOT, WORK

DEAR COLLEAGUE: I am writing to urge my colleagues to support Rep. Solomon's substitute, when the House takes up "enhanced rescission" legislation. Take it from someone who tried to use the existing rescission authority: The Stenholm/Spratt proposal will not work because it has the same basic flaw that plagues the current law: it is subject to the rules of the House. In fact, Stenholm/Spratt provides that its provisions are enacted as an exercise of the rule-making power of the House and Senate which means of course that it could be changed at the whim of the Majority.

Rep. Solomon's approach, H.R. 24, is a statutory line-item veto and can work.

This is a very complicated issue, but please bear with me; those who support giving the President line-item veto authority should understand the critical distinction between the Solomon and Stenholm/Spratt approaches.

CURRENT LAW

We already have "expedited Presidential rescission authority" on the books; it is section 1017 of the Budget Act of 1974. This provision allows the President to send rescission messages to Congress. Congress, in response, must approve the President's rescissions, or the money will be obligated. There are expedited procedures in the law that allow just one-fifth of the members of the House to bring rescissions to a vote under this "approval authority."

Last year was the first time since I have been in Congress that a President tested the 1974 "expedited rescission authority". Republicans in the House invoked section 1017 last April to get a vote, as provided under the law, on 96 Presidential rescission mes-

sages. We easily had the requisite one-fifth of the House. However, we soon discovered why "expedited approval authority" doesn't work under the Budget Act of 1974.

All of the expedited procedures for bringing rescissions to a vote are part of the Budget Act. Sec. 1017 of the Budget Act is a "rule-making statute," i.e., it was enacted "as an exercise of the rule-making power of the House and Senate" and, like other rules of the House, it may be waived or changed if a majority of the Members vote to do so. Accordingly, all of these wonderful expedited procedures can be waived or altered by a simple majority of House members in a rule or otherwise. This is precisely what the Rules Committee did to us last year—they waived our right to get a vote on the Presidential rescissions, even though the Budget Act gave us that right, and the President's rescissions died without any vote as required by the law.

THE STENHOLM/SPRATT RESCISSION BILL

The Stenholm/Spratt Rescission bill inherits this same fatal flaw. It also requires the approval of the President's suggested rescissions by Congress by the passage of the "draft bill" submitted by the President with his rescission message. As an amendment to the 1974 Budget Act it requires that Congress consider rescissions within a specified time period, and requires a "a vote on final passage of the bill shall be taken in the House. However, all of these provisions, under new sec. 1013, are also enacted "as an exercise of the rulemaking power of the House and Senate" and could be waived or altered by a simple majority vote.

THE SOLOMON ALTERNATIVE IS A STATUTORY LINE-ITEM VETO

The Solomon line-item veto proposal, a proposed substitute to Stenholm/Spratt, is a statutory line-item veto proposal for FYs 94. It is completely outside of the Budget Act of 1974 and, therefore, is not subject to, or deemed to be, a part of the rules of the House. It rescinds budget authority so designated by the President, unless a rescission disapproval bill making available all of the amount rescinded by the President is enacted into law by Congress.

The Solomon plan does not give Congress any way to squirm out of voting on the rescissions if they want to spend the money. The President rescinds designated appropriations. The rescissions will never be spent unless Congress passes, and the President signs, a rescission disapproval bill. The President would, most likely, veto the rescission disapproval, but Congress could override the veto with a two-thirds majority. The Congressional Research Service experts tell me that the Solomon approach is clearly constitutional.

Believe me, there is no way to make an "approval" type procedure work by amending the 1974 Budget Act and subjecting such an "enhanced rescission" power to the rules of the House. As long as Congress can avoid taking a vote on the rescissions, and they can always find a way under their "Rules", there is no Constitutional way to ever guarantee a vote on the Presidential rescissions.

Sincerely,

HARRIS W. FAWELL,
Member of Congress.

Mr. SOLOMON. Will the gentleman yield?

Mr. FAWELL. I yield to the gentleman from New York.

Mr. SOLOMON. Mr. Speaker, I would ask the gentleman if he would mind asking unanimous consent to submit for the record his "Dear Colleague" letter, which explains the real difference between the two bills.

Mr. FAWELL. I will say to the gentleman, I am glad to do so, if that is in order.

The SPEAKER pro tempore (Mr. MAZZOLI). Without objection, so ordered.

There was no objection.

The Chair would advise Members that the gentleman from South Carolina [Mr. DERRICK] has 16½ minutes remaining, and the gentleman from New York [Mr. SOLOMON] has 14 minutes remaining.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 90 seconds to the distinguished gentlewoman from California [Ms. SCHENK].

Ms. SCHENK. Mr. Speaker, this House has already completed action on a budget resolution which will trim nearly \$496 billion from our Federal deficit over the next 5 years. Today, we have the opportunity to enact a structural reform which will restore common sense to the budget process.

As one who served as a cabinet secretary in the executive branch of California's government, I know first-hand the value of a line-item veto. There are times when executives must have the power to make painful, responsible spending cuts. In fact, 43 Governors today have some form of line-item veto at their disposal.

The new Members of this body, myself included, have seen how difficult it is to make hard choices and necessary spending cuts. The legislation we must pass today will enable the President to take the steps necessary to bring fiscal discipline to our Nation.

I will gladly support expedited rescission authority for the President. I urge my colleagues to cast aside partisanship and vote for this rule which will bring this important legislation to the floor.

Mr. SOLOMON. Mr. Speaker, I yield 2 minutes to the gentleman from San Diego, CA [Mr. HUNTER], a very valuable Member.

Mr. HUNTER. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I want to respond to my colleague, my good friend [Ms. SCHENK], who is from San Diego also, and all other Members who spoke about this rule bringing forth the opportunity to vote on a line-item veto within the next several hours.

It is true that we will have a chance to vote for the line-item veto, but the Democrat proposal is not a line-item veto. Let us make this very clear.

I think we all remember in the movie Crocodile Dundee when Mr. Dundee was accosted by a gentleman who had a very short knife, and he pulled it out, and Crocodile Dundee said, "That is not a knife, this is a knife," and he pulled out a real knife, a big knife.

Let me tell the Members, Solomon-Castle is a real knife. The Democrat proposal is not like the line-item veto of California. Interestingly, it is not like the line-item veto of any one of the 43 States of the Union that have a real line-item veto. In short, it is not a line-item veto.

A majority of either body can kill this line-item veto attempt by the President of the United States, a majority of either body. In the real line-item veto, that is, Castle-Solomon, it takes a two-thirds majority, a two-thirds majority in both Houses to kill the line-item veto attempt by the President.

In other words, Castle-Solomon allows the President to make real cuts. Our constituents want us to make real cuts, and they want this cutting in the public debt, which they are so concerned about, to be a partnership between the President and the Congress. Once again, the line-item veto instrument that the Democrats are offering is not a real line-item veto, and we will show in the full debate what is a line-item veto for every one of the 43 States in the Union that uses a real line-item veto, including California.

This is not like any of them. This is very watered down, and once more, it is an attempt by the Democrat majority to take a Republican issue, suck all the substance out of it, and leave the hollow shell, and tell the American people, "We have done something for you." This does nothing for the debt-cutting process.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from Kansas [Mr. GLICKMAN].

Mr. GLICKMAN. Mr. Speaker, I first want to say that I support this rule. I have been one who has believed that more rules need to be opened up. There needs to be more genuine debate on the issues. I think this amendment reflects a good balance in terms of opening up the process and getting full debate. I compliment the Committee on Rules.

This bill establishes a new process for considering presidentially suggested cuts to spending bills. Under current law, the President may submit cuts to Congress as part of the appropriations process, but we are not required to vote on the cuts. The spending will automatically go into effect unless we do.

Under this bill, which is a profound change in law, the Congress must vote on the cuts within 10 days. The bill is for a 2-year period only, while we see if the process works.

As the gentleman from Ohio [Mr. FINGERHUT] and the gentlewoman from California [Ms. SCHENK] and other freshman Democrats who have taken great leadership on this have said, our constituents are most desirous of efforts to reduce nonauthorized and earmarked spending, sometimes referred to as pork barrel, sometimes erroneously, but that is the kind of spending that folks want us to address.

This bill is a genuine effort to focus on making our spending decisions more prudent. I disagree with the Speaker. I think this is a profound change in the way we have done business here.

There are some problems in this bill. Not all spending is covered. Only discretionary spending is covered, so entitlement programs are not affected. Tax expenditures are not covered, although that may be corrected as an amendment to this bill. I think that they should be.

I also know there are some very serious institutional reservations, particularly from some of the appropriators, but other people as well, that this takes away powers from Congress. However, it is a first start to address the public need to see us dealing effectively with the spending issue.

There is an expression that "the perfect is the enemy of the good." This bill may not be perfect, but it is good. It is good enough that we should pass it today and let the American people know that we are serious about making prudent spending decisions in the future.

Mr. SOLOMON. As the Chair can see, we have had a whole host of freshman Republican speakers. We have another one right now. I yield 2 minutes to the gentleman from Midland City, AL, Mr. TERRY EVERETT, a freshman and a really outstanding Member.

Mr. EVERETT. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I rise today in opposition to the rule and call on all freshman Members to put aside partisanship and vote against this rule, for the sake of the American people.

I came to this great body, like many of my freshman Democratic friends, largely because the people in my district wanted change. Part of the change they wanted was a true, a true line-item veto.

Well, I have heard a lot about change, but I have not seen any real change, none at all. Frankly, I have been disappointed that with 110 new Members who have promised the people back home that they would work for that change, that this Congress has not responded. What we have had is the same old nonsense.

Mr. Speaker, it is not too late. We freshmen still have an opportunity to reach across party lines and do something for the American people.

I say to my friends across the aisle, help us vote this rule down. Help us vote this rule down, and as a Republican freshman I will vote to make in order the Democratic freshman true line-item veto.

I prefer the stronger Castle-Solomon true line-item veto, but for the sake of the American people I will vote to make in order the freshman true line-item veto, and to do what the public sent us here to do, make a change and change this place.

So I ask Members to vote no on this rule. It does not represent a true line-item veto, and it does not represent change.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 3 minutes to the gentleman from Texas [Mr. STENHOLM].

Mr. STENHOLM. Mr. Speaker, I rise today in support of the rule. This rule would allow for 2 hours of general debate as well as consideration of two of the leading alternative approaches to line-item veto.

I am surprised, and quite frankly disappointed that my good friend, the gentleman from New York [Mr. SOLOMON] opposes this rule today, because we are truly going to have a debate on the main issue of line-item veto, something that he has wanted and I have wanted. But now we find that he opposes the rule.

My good friend and colleague, the gentleman from South Carolina [Mr. SPRATT] and I have added to the original legislation which I introduced several perfecting amendments on our amendment.

I consistently argue for rules which allow open debate on issues and an opportunity for the House of Representatives to honestly work its will. There have been a number of times, in fact once very recently, when I have been disappointed that the rules have not allowed a full airing of legislation, of opinions and an opportunity to

cast votes on leading alternative approaches. Therefore, I appeared before the Rules Committee yesterday and asked that they make all germane amendments requested in order, and they did.

Today we are going to debate the issue of line-item veto, and those who want line-item veto will have an opportunity to vote on that issue today.

The issue of line-item veto authority has been debated for many years, and I have always opposed a straight line-item veto based on my belief that it creates an imbalance in the balance of powers between the legislative and the executive branches. I have found very appealing enhanced rescission authority, which is what we bring today in the Spratt-Stenholm amendment.

I believe that two issues, and there are other issues are now getting mixed up. The contract authority I think has appeal. I think the taxing issue has appeal. The gentleman from Illinois [Mr. MICHEL] will be able to offer his amendment to this issue today, and we can debate it. I believe that these issues belong in the debate, and that is what we will do today.

My visceral reaction is that these issues should be included in rescission order. But I have not yet explored, nor have most of our colleagues on either side explored the pros and cons of adding these issues today. I am eager to hear others with greater constitutional and institutional expertise than I debate the nuances of including tax expenditures and contract authority in rescission authority. I think it is highly likely that 2 years from now when we consider renewing this contract on this legislation that I will be prepared to vote for rescissions of this sort.

At this point, however, I do not believe the debate has matured to the point where we should be attaching these unexplored ideas to legislation which is likely to be signed into law. Many were rightfully concerned about minimal committee debate about this issue before it comes up today. Therefore, when we look at the issue before us at this very moment, the rule, how can anyone say that it is not a fair and open rule when we get to debate the issue that is before us today, and that is line-item veto as proposed by the other side and the modified rescission order as proposed by those of us who have believed that that is the proper way to go?

Vote for the rule. Let us get on with the debate, and let the majority rule.

Mr. SOLOMON. Mr. Speaker, in an act of fairness, I yield 1 minute to my good friend, the gentleman from Maryland [Mr. MFUME], one of the fairest speakers who takes the rostrum once in a while. I will pay him back a favor in this manner.

Mr. MFUME. Mr. Speaker, I thank the gentleman from New York for yielding.

I rise today on behalf of the men and women of the Congressional Black Caucus who have taken a position of principle with regard to the matter of this rule and the rescission bill.

The Constitution clearly lays out implied and stated powers, and history has shown that every time a power is ceded, it is very seldom returned, and that the executive branch, whether Democrat or Republican, historically has taken unto itself implied powers within the Constitution. The War Powers Act and a number of other things I could stand here and recite, but suffice it to say that even

on the matter of constitutionality there is still a great deal of question as to whether the Founding Fathers of this Nation meant in fact for the executive branch to have that sort of power.

So the Congressional Black Caucus, on a pure position of principle, stands in opposition to this rule, and in opposition to the rescissions act, and would urge Members of this body to join with others in an effort to defeat it.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from Arizona [Mr. COPPERSMITH].

Mr. COPPERSMITH. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, today is a better day than yesterday. Last night's debate was an exercise in partisanship, but today we have an opportunity to move beyond that.

Last night a number of people on the minority side wanted to link two votes together, but here 12 hours later there is this rule which will finally give us our chance to vote and debate for the line-item veto.

I would ask my colleagues on both sides of the aisle to recognize that none of these proposals before us nor this rule is perfect. There are many valid arguments over particular details in the program. But nobody always gets what they want. The rule may not be with certain Republicans want, but then we Democrats have a leadership that had us vote on debt ceiling during prime time, and have this debate and vote when none of my constituents are watching.

This rule allows us today to make today better than yesterday was. It allows us to establish the tools to make a better future.

This is an issue that cuts across party lines, as we have just seen from the previous speaker, but this is a rule that allows it to get to the floor. Let us bring it to the floor.

Last night each side just pointed fingers. Today we can do better. We can point the way to a better future.

Vote yes on the rule, and then let us debate and vote on the exact form of line-item veto on the merits.

Mr. SOLOMON. Mr. Speaker, I yield 2 minutes to the gentleman from the great State of Georgia, Mr. JOHN LINDER, another outstanding freshman.

Mr. LINDER. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, there is an aphorism that goes, "Never attempt to teach a pig to sing. You will waste your time and annoy the pig."

Trying to sell this to the American people as a line-item veto is very much like trying to teach a pig to sing. It is not. It merely speeds the process up from 45 days to 20 days and requires the body to vote by majority to overrule the President, the same majority that passed the spending to start with. And it disappears in 2 years.

That is why Members must have a closed rule, because this body and the Democratic leadership cannot afford a wide-open vote on a real line-item veto such as they have in 43 States, such as the Castle-Solomon bill, such as the Democratic freshmen's proposal is.

I do not know why they chose not to introduce it or ask that it be made in order in the Rules Committee. But the Democratic freshmen had a better offer than this one before us.

Under the freshman plan, a rescission can only be blocked if both Houses pass disapproval legislation.

Mr. Speaker, if there is one single issue before us that requires us to cast aside partisan concerns and act, it is the problem of the ever-growing Federal deficit. The American people have made it very clear that they want us to act decisively and in unison on this matter.

Only by granting the President a true line-item veto will we be able to say that.

If you will help us defeat this rule, we will make in order the freshman Democrats' proposal, which is a real line-item veto.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 1 minute to the distinguished gentlewoman from Florida [Ms. BROWN].

Ms. BROWN of Florida. Thank you, Mr. Speaker. As one of the first African-American Members elected from the State of Florida in 129 years, I was sent to Congress to represent my constituents on every issue which is brought before the U.S. House of Representatives, including those involving appropriations and the national budget.

Before being elected to the House, I was a member of the Florida State House for 10 years. During my tenure, I worked with Democratic and Republican Governors who had line-item veto authority. My experience was one in which Governors did not use their power to reduce spending but instead used the line-item veto for partisan purposes.

As a result, I believe that I have an experienced perspective on H.R. 1578, the Expedited Rescission Act which is before the House for consideration. My concern is that H.R. 1578 would shift too much power to the President and the executive branch and give the White House a new tool to press Members of Congress on other matters. For example, the White House could threaten to rescind funding for a project in a particular Member's district if the Member did not support the President on another vote of importance to the white House.

This is the House of Representatives, in other words the people's House. Let's not take power away from the people who sent us here.

As a result, I urge my House colleagues to vote against the rule for H.R. 1578, any amendments, and the bill.

Mr. SOLOMON. Mr. Speaker, I yield 2 minutes to the deputy minority whip, the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, we need to be very clear here about what is being voted on. This is not a vote on line-item veto. Any of you coming to the floor and thinking you are going to get cover for voting for a line-item veto here, you are not.

The gentleman from Texas [Mr. STENHOLM] himself, and I quote from the CONGRESSIONAL RECORD, said that he will oppose and he has always opposed the pure line-item veto. He says, "I do not be-

lieve giving any President one-third-plus-one veto authority on the works of Congress. I think it unbalances the balance of power."

So this is not anything close to a line-item veto. Even the chief sponsor of it says that.

This is another play on words that the Democrats have gotten good at. You know, they now call investments—that is their new word for Big Government spending; contributions are now their new word for Big Government taxes; and rescission is now the new word for pork protection.

What the Democrats really are offering probably should be called enhanced circumcision, because it effectively cuts the truly taxpayer friends out of the process, and this is just an absolutely terrible piece of legislation, if you really want to get to where the President is going to have real authority.

I do not think that you are going to get there with anything that the process today offers. If you really want to help us get to a true line-item veto, what you want to do is defeat this rule so that we can work to make in order the Democratic freshmen's package which is more likely a real line-item veto. That is the way to really get to the heart of the matter here.

I think that there is a good chance this rule may go down. If it goes down, what we ought to get back then is a true line-item veto rather than fooling around at the edges the way this particular package does.

This is simply an attempt to give people cover. We ought not have votes on the floor giving people cover. What we need to have is packages on the floor that do real things.

Mr. DERRICK. Mr. Speaker, I yield 30 seconds to the gentleman from Texas [Mr. STENHOLM].

Mr. STENHOLM. Mr. Speaker, will the gentleman answer one question? It is my understanding that the Committee on Rules made in order the Republican leadership's request to grant the gentleman from New York [Mr. SOLOMON] and the gentleman from Illinois [Mr. MICHEL] what you wished to have debated on the floor, and it is my understanding that that is line-item veto. If it is not, why did you not, when you got the opportunity to debate on this floor line-item veto, offer it? But is it not true that your amendment is line-item veto, I ask the gentleman from New York [Mr. SOLOMON]?

Mr. SOLOMON. Mr. Speaker, will the gentleman yield?

Mr. STENHOLM. I yield to the gentleman from New York.

Mr. SOLOMON. Mr. Speaker, yes, it is.

Mr. STENHOLM. All right. So we will be debating line-item veto. And we will vote on your proposal up and down with the will of the House today. So why would the gentleman from Pennsylvania stand here and say we are giving cover? Everybody is going to get a chance to vote, and you are too, but you are complaining about it.

CALL OF THE HOUSE

Mr. DERRICK. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members responded to their names:

[Roll No. 135]

Abercrombie	Coleman	Gallo
Ackerman	Collins (GA)	Gejdenson
Allard	Collins (IL)	Gephardt
Andrews (ME)	Collins (MI)	Geren
Andrews (NJ)	Combest	Gibbons
Andrews (TX)	Condit	Gilchrest
Applegate	Conyers	Gillmor
Arney	Cooper	Gilman
Bacchus (FL)	Coppersmith	Gingrich
Bachus (AL)	Costello	Glickman
Baesler	Cox	Gonzalez
Baker (CA)	Coyne	Goodlatte
Baker (LA)	Cramer	Goodling
Ballenger	Crane	Gordon
Barcia	Crapo	Goss
Barlow	Cunningham	Grams
Barrett (NE)	Danner	Grandy
Barrett (WI)	Darden	Green
Bartlett	de la Garza	Greenwood
Barton	Deal	Gunderson
Bateman	DeFazio	Gutierrez
Becerra	DeLauro	Hall (OH)
Beilenson	DeLay	Hall (TX)
Bentley	Dellums	Hamburg
Bereuter	Derrick	Hamilton
Berman	Deutsch	Hancock
Bevill	Diaz-Balart	Hansen
Bilbray	Dickey	Harman
Bilirakis	Dicks	Hastert
Bishop	Dingell	Hastings
Blackwell	Dixon	Hayes
Bliley	Dooley	Hefley
Blute	Doolittle	Hefner
Boehlert	Dornan	Herger
Boehner	Dreier	Hilliard
Bonilla	Duncan	Hinchey
Bonior	Dunn	Hoagland
Borski	Durbin	Hobson
Boucher	Edwards (CA)	Hochbrueckner
Brewster	Edwards (TX)	Hoekstra
Browder	Emerson	Holden
Brown (FL)	Engel	Horn
Brown (OH)	English (AZ)	Houghton
Bryant	English (OK)	Hoyer
Bunning	Eshoo	Huffington
Burton	Evans	Hughes
Buyer	Everett	Hunter
Byrne	Ewing	Hutchinson
Callahan	Fawell	Hutto
Calvert	Fazio	Hyde
Camp	Fields (LA)	Inglis
Canady	Fields (TX)	Inhofe
Cantwell	Filner	Inslee
Cardin	Fingerhut	Istook
Carr	Fish	Jacobs
Castle	Flake	Jefferson
Chapman	Foglietta	Johnson (CT)
Clay	Ford (MI)	Johnson (GA)
Clayton	Franks (CT)	Johnson (SD)
Clement	Franks (NJ)	Johnson, E.B.
Clinger	Frost	Johnson, Sam
Clyburn	Furse	Johnston
Coble	Gallegly	Kanjorski

Kaptur	Miller (FL)	Sangmeister
Kasich	Mineta	Santorum
Kennedy	Minge	Sarpalius
Kennelly	Mink	Sawyer
Kildee	Moakley	Saxton
Kim	Molinari	Schaefer
King	Mollohan	Schenk
Kingston	Montgomery	Schiff
Kleczka	Moorhead	Schroeder
Klein	Moran	Schumer
Klink	Morella	Scott
Klug	Murphy	Sensenbrenner
Knollenberg	Murtha	Serrano
Kolbe	Myers	Sharp
Kopetski	Nadler	Shaw
Kreidler	Natcher	Shays
Kyl	Neal (MA)	Shepherd
Lambert	Neal (NC)	Shuster
Lancaster	Nussle	Sisisky
LaRocco	Oberstar	Skaggs
Lazio	Obey	Skeen
Leach	Olver	Skelton
Lehman	Ortiz	Slattery
Levin	Orton	Slaughter
Levy	Owens	Smith (MI)
Lewis (CA)	Oxley	Smith (NJ)
Lewis (FL)	Packard	Smith (OR)
Lewis (GA)	Pallone	Snowe
Lightfoot	Parker	Solomon
Linder	Pastor	Spence
Lipinski	Paxon	Spratt
Livingston	Payne (NJ)	Stearns
Lloyd	Payne (VA)	Stenholm
Long	Pelosi	Stokes
Lowey	Penny	Strickland
Machtley	Peterson (FL)	Studds
Maloney	Peterson (MN)	Stump
Mann	Petri	Stupak
Manton	Pickett	Swift
Manzullo	Pickle	Synar
Margolies-Mezvinsky	Pomeroy	Talent
Markey	Porter	Tanner
Martinez	Poshard	Tauzin
Matsui	Price (NC)	Taylor (MS)
Mazzoli	Pryce (OH)	Taylor (NC)
McCandless	Quinn	Tejeda
McCloskey	Ramstad	Thomas (CA)
McCollum	Rangel	Thomas (WY)
McCrery	Ravenel	Thornton
McCurdy	Reed	Thurman
McDade	Regula	Torkildsen
McDermott	Reynolds	Torres
McHale	Richardson	Torricelli
McHugh	Roberts	Towns
McInnis	Roemer	Trafigant
McKeon	Rogers	Unsoeld
McKinney	Rohrabacher	Upton
McMillan	Rose	Velazquez
McNulty	Rostenkowski	Vento
Meehan	Roth	Visclosky
Meek	Roukema	Volkmer
Menendez	Rowland	Vucanovich
Meyers	Roybal-Allard	Walker
Mfume	Royce	Walsh
Mica	Rush	Washington
Michel	Sabo	Waters
Miller (CA)	Sanders	Watt

Waxman
Weldon
Wheat
Whitten
Wilson

Wise
Wolf
Woolsey
Wyden
Wynn

Yates
Young (AK)
Young (FL)
Zeliff
Zimmer

The SPEAKER pro tempore (Mr. MAZZOLI). On this rollcall, 405 Members have recorded their presence by electronic device, a quorum.

Under the rule, further proceedings under the call were dispensed with.

PROVIDING FOR CONSIDERATION OF H.R. 1578, EXPEDITED RESCISSIONS ACT OF 1993

Mr. DERRICK. Mr. Speaker, I withdraw the resolution.

The SPEAKER pro tempore. The resolution is withdrawn.

April 28, 1994

[From the Congressional Record pages H2067-2078]

PROVIDING FOR CONSIDERATION OF H.R. 1578, EXPEDITED RESCISSIONS ACT OF 1993

Mr. DERRICK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 149 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 149

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 1578) to amend the Congressional Budget and Impoundment Control Act of 1974 to provide for the expedited consideration of certain proposed rescissions of budget authority. The first reading of the bill shall be dispensed with. General debate shall be confined to the bill and shall not exceed two hours, with one hour to be equally divided and controlled by the chairman and ranking minority member of the Committee on Rules and one hour to be equally divided and controlled by the chairman and ranking minority member of the Committee on Government Operations. After general debate the bill shall be considered as read for amendment under the five-minute rule. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute printed in part 1 of the report of the Committee on Rules accompanying this resolution. The amendment in the nature of a substitute shall be considered as read. No amendment to the amendment in the nature of a substitute shall be in order except those printed in part 2 of the report of the Committee on Rules. Each amendment may be offered only in the order printed, may be offered only by the named proponent or a designee, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment except as specified in

the report, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. All points of order against the amendments printed in the report are waived. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the amendment in the nature of a substitute made in order as original text. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore (Mr. DURBIN). The gentleman from South Carolina [Mr. DERRICK] is recognized for 1 hour.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from New York [Mr. SOLOMON] pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purposes of debate only.

GENERAL LEAVE

Mr. DERRICK. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the resolution presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from South Carolina?

There was no objection.

Mr. DERRICK. Mr. Speaker, House Resolution 149 makes in order the consideration of H.R. 1578, the Expedited Rescissions Act of 1993. The resolution provides for 2 hours of general debate, 1 hour equally divided and controlled by the chairman and ranking minority member of the Committee on Rules, and 1 hour equally divided and controlled by the chairman and ranking minority member of the Committee on Government Operations.

The resolution makes in order as an original bill for the purpose of amendment an amendment in the nature of a substitute printed in part 1 of the report accompanying the resolution.

No other amendment is in order except those printed in part 2 of the report, which shall be considered as read and considered only as specified in the report, which is as follows: first, an amendment in the nature of a substitute by, and if offered by Representative CASTLE or Representative SOLOMON, or a designee, debatable for 1 hour, equally divided and controlled by the proponent and an opponent; and second, an amendment made in order only to the Castle-Solomon amendment by, and if offered by Representative MICHEL or a designee, debatable for 30 minutes, equally divided and controlled by the proponent and an opponent.

The amendments are not subject to amendment or to a demand for a division of the question in the House or the Committee of the Whole. The resolution waives all points of order against the amendments printed in the report. In the case of the Michel amendment all points of order are waived only as it pertains to the Castle-Solomon amendment.

The resolution provides that any Member may demand a separate vote in the House on any amendment to the bill or the amendment in the nature of a substitute made in order as original text. Finally, the resolution provides for one motion to recommit, with or without instructions.

Mr. Speaker, in his State of the Union Address delivered in this very Chamber on February 17, our new President outlined a bold plan to restore the American dream for us and our children.

The President's plan represents a drastic change from the status quo. The President wants to reject the policies and practices of the past which have quadrupled our debt and left many Americans believing their Government doesn't work. The people want change, and the President's program offers change for the betterment of our Nation.

The legislation made in order by this rule would give the President one of the key changes he has sought, and which I believe we desperately need: A modified line-item veto.

Mr. Speaker, we all know wasteful spending sometimes occurs because individual items can escape scrutiny by being submerged in large appropriations bills.

Under current procedures a President cannot strike out individual items in appropriations acts. He must sign or veto the whole act, whatever the consequences. H.R. 1578 would give the President an option he does not now have.

Under H.R. 1578, within 3 days of signing an appropriations act the President could send the House a message and bill proposing to rescind, or cancel, individual spending items in that act.

The President's proposal would be referred to the Appropriations Committee. That committee must report it to the floor without amendment within 7 days. The House must vote, up or down, on the President's bill within 10 days of introduction. During this time the funds would not be spent. If the bill passed the House, it would go to the Senate for expedited consideration there, and if passed by the Senate, on to the President for his signature.

To avoid the possibility a President might use this procedure not primarily to reduce the deficit, but instead to promote his own pet projects, H.R. 1578 would allow the Appropriations Committee to report to the House, simultaneously with the President's bill, an alternative. To qualify for expedited consideration, the committee's bill must propose to cancel spending from the same appropriations act the President drew his rescissions from, and it must propose to cancel an amount of spending equal to or exceeding the President's total.

If the committee reported an alternative, the House would first vote on the President's bill; if adopted by a majority vote, the President's bill would go to the Senate for expedited consideration and the alternative would not be in order. If the House rejected the President's bill and passed the alternative, that bill would go to the Senate instead.

The Senate Appropriations Committee could also report an alternative bill. But it would not be in order to consider anything but the President's bill until the Senate first voted on and rejected the President's bill. The President is thus guaranteed a vote on his proposal.

If both Houses ultimately passed an alternative bill instead, then those funds would be canceled. Thus, under H.R. 1578, if either the President's bill or an alternative bill passed both houses, spending will be cut and the American taxpayer would be the big winner.

Mr. Speaker, the President supports H.R. 1578 because he believes with a modified line-item veto millions and perhaps billions of dollars might be saved. These are dollars which our taxpayers worked and earned by the sweat of their brows and sent to Washington to fund the essential activities of Government, not to be squandered on ridiculous pork barrel projects.

This bill gives the President the tool he needs to block pork barrel projects like asparagus research, renovating Lawrence Welk's birthplace, or studying the aggressive tendencies of fish in Nicaragua. It will give the President the ability to force Congress to go on the record regarding researching cockroaches, or why people fall in love, or building schools for North Africans in France.

Mr. Speaker, these kinds of pork are an embarrassment which we can clearly not afford. The American people won't stand for them, and we haven't any business asking them to do so.

Quite simply, H.R. 1578 will create accountability. No longer will a President be able to sign an appropriations act containing wasteful items and claim he was powerless to block them.

No longer will Congress be able to force upon the President the dilemma of vetoing an entire act and shutting down the Government, or signing the whole thing, bacon and all. If Congress wants to appropriate funds for these purposes, then a majority of either House need only stand up and be counted. If the President does not want them, then he has the responsibility to send them back. It is that simple, and I believe it will work.

Mr. Speaker, last year I held extensive hearings in my subcommittee on various legislative line-item veto proposals, and brought the forerunner of H.R. 1578 to the floor, where it passed by a vote of 312 to 97. The bill before us today is, in my opinion, a better bill than last year's. It deserves our strong support.

The rule also deserves our strong support. It makes in order a Republican substitute, an amendment thereto offered by the minority leader or his designee, and it does not restrict the motion to recommit. Many issues have already been worked out; the rule will allow a full airing of the remainder. I urge all Members to support the rule and the bill, and I reserve the balance of my time.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to welcome my colleagues to the "Hour of Power." This occasion is truly a sign of just how powerful the Rules Committee is, since today we are beginning the third hour on this rescission rule under what is called the 1-hour rule. And Mr. Speaker, only the Rules Committee can turn 1 hour into 3.

My colleagues will recall that on April 2, when we first took up this rule, we debated it for nearly the full hour allotted, and then we were treated to a 15-minute quorum call that stretched into more than another hour.

Did it really take the House that long to achieve a quorum? No; 405 Members had already answered to their names after the req-

uisite 15 minutes, and that did not change any over the next 45 minutes.

But the Democrat leadership was apparently not altogether satisfied with that turnout for some reason because it continued to roam the floor and the corridors looking for certain Members.

And when the Speaker finally banged his gavel, and announced the presence of the same 405 Members who had been sitting around for that whole hour, the majority manager for the rule announced that he was withdrawing it.

Mr. Speaker, I had hoped that all this was a sign that the Democrat Party in the House was about to turn into true, small-d democrats again, and send this restrictive rule back to the Rules Committee to open it up to additional amendments.

But my hopes for an Easter miracle in this House have been dashed on the rocks of reality, and we are back here once again for the third hour on this same old rule.

Mr. Speaker, this rule, House Resolution 149, which makes in order this expedited rescission bill, is the 10th consecutive modified closed or closed rule reported in this Congress. Not one rule has been fully open to amendments.

Over the last 3 months, we on the Republican side have been trying to impress upon our Democrat colleagues and the American people that when we complain about closed rules we are not simply engaging in some procedural, partisan tantrum. We are instead trying to warn against what we perceive as the intentional undermining of our democracy in this House. And it is happening right here in the people's House, of all places.

Mr. Speaker, sometimes it is hard to convey to the average citizen what all this fuss over restrictive rules is about. But when you tell them that they are being robbed of their full right to representation in the House of Representatives because a committee says their Congressman cannot offer amendments, they begin to see things in a different light.

As a matter of fact, they begin to see red.

I would have you read these letters from West Virginia, Tennessee, Kentucky, Ohio, Alabama, Florida, California, everywhere in the Nation; people are beginning to wake up.

Mr. Speaker, things have gotten so bad that our Republican leadership has found it necessary to create a task force on deliberative democracy in the House to try to restore full voting and amendment rights to Members, and full representational rights to the American people.

I am privileged to chair that task force for our leadership, and we have a good group of Republican Members on the task force who have vowed to fight to reopen This People's House to the people. And we will not give up ladies and gentleman.

Several days ago, we issued our first report in which we concluded that deliberative democracy is in a dangerous state of decline in the House, and if that decline is not reversed, we are going to get bad bills, bad policies, and more bad marks from the American people. How much worse can they get?

This Democrat leadership policy of closing down bills to amendments is undermining our democracy and the people confidence in their government. The majority Democrat leadership seems to

think that the people are going to applaud them for ending gridlock, even if it means putting democracy under a strong-arm hammerlock.

Well, I have got news for you. The people I have been hearing from around the country that I have just mentioned, letters from South Carolina, and Utah, from all over for instance, do not like what is being done to them by these rules one bit. They want back into their own House and they want in now, ladies and gentlemen. It is going to come back to haunt you.

Today, we have another restricted rule that allows for just two amendments. And, while one of those two amendments happens to have my name on it along with 43 freshman Republicans, I cannot support this rule, because you are gagging the American people.

Instead, I offered in the Rules Committee a substitute open rule that would have specifically allowed our Republican leader to amend the so-called Spratt bill that is the base text of the bill by allowing any President whoever he might be, to line out special pork in this form of special tax exemptions. Nothing is more aggravating than to have some industry in Chicago get a special break when some industry in Albany, NY, has to pay the full price. That is wrong.

And yet, the Rules Committee turned down the Republican leader's request to have that amendment made in order to the base bill. What have we come to as a House when the majority Democrats on the Rules Committee coldly and callously stiff the Republican leader?

Mr. Speaker, I do not think it is unreasonable on something as important as the issue of line-item veto to have an open amendment process.

This is not the Tax Code, let alone rocket science.

I do not think it is unreasonable to have a process where by we try to reach a consensus approach that takes the best from both parties, the best from all Members of this House, regardless of party.

That was the message the American people really had for all of us last fall. Stop your partisan gamesmanship and bickering and work together for the good of the country. That is the message I heard.

And yet it is difficult to work together when the majority leadership says, "Most Members of this House don't deserve to participate in the legislative process. Their ideas aren't worth it. Their amendments aren't worth it. And the people they represent aren't worth it. You had better start thinking about that, ladies and gentlemen.

"Instead, we are going to substitute the wisdom of a few Democratic leaders and a couple of Rules Committee members for the collective judgment of 435 Members and your constituents."

That is what the Democratic leadership is saying by these rules. Well, I for one say the time has come to stop being elitist, stop the "pappa knows best" attitude which treats the rest of the Members and their constituents like children.

Ladies and gentlemen, you can vote down this rule. We can come back with an open rule, and every single one of you, every single one of you, like the Wall Street Journal says here right now, "The

push to replace the line-item veto with a sham substitute is typical of how Congress is dealing with reform in this session. It is faking it." And that is why you and I and the rest of this body are held in the lowest esteem in history. You ought to be ashamed of it. You ought to vote down this rule and give us a fair shot on the floor of this House.

Mr. Speaker, I reserve the balance of my time.

Mr. DERRICK. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the rule before this body is fair. It gives the Republicans their chance. It gives the Democrats their opportunity. And through the means of recommittal, it gives the Republicans an opportunity to put anything they want to in a motion to recommit, provided it is germane. No rule that could be fairer.

Having said that, I yield 1½ minutes to the distinguished gentleman from Florida [Mr. DEUTSCH].

Mr. DEUTSCH. I thank the gentleman for yielding this time to me.

Mr. Speaker, President Clinton ran for President as a new Democrat, as a Democrat who is fiscally responsible.

He had a message, a message that just because you are a Democrat does not mean you are an economic fool.

There is a \$4 trillion debt that exists in this country, a cancer on our country, a cancer that is affecting our lives and our children and our grandchildren. And that \$4 trillion debt has occurred under Democratic and Republican Presidents. It has occurred under Democratic and Republican Congresses.

Before I came here, I served 10 years in the Florida Legislature, where I served under both Republican and Democratic Governors, who used the line-item veto well and successfully for the State. This is an opportunity for the United States to join 43 other States in this country and have a line-item veto that works.

Make no mistake, the vote on the rule is the vote on fiscal responsibility. Use words and make expressions, anything you want, but that is the true vote, as the National Tax Union has said and all of us know here today.

Mr. SOLOMON. Mr. Speaker, I yield such time as he may consume to our distinguished Republican leader, the gentleman from Illinois, Mr. BOB MICHEL.

Mr. MICHEL. Mr. Speaker, I rise to strongly urge my colleagues to vote against the rule before us today providing for consideration of the Expedited Rescission Act and applaud the gentleman from New York, [Mr. SOLOMON] for his remarks made earlier on the leader's behalf with respect to the amendment we have pending.

It is yet another closely structured rule presented by the Democratic majority of the House to reach the outcome that the Democrats' desire.

Now, if this rule is agreed to, the Democrats could then probably pass an imposter for the line-item veto and tout it to the American people as real action on a presidential line-item veto.

I do not know how many of you saw the Wall Street Journal this morning, but they editorialized forcefully this morning that the Democrat's proposal is a sham substitute for the line-item veto.

Yes, this rule does allow consideration of a Republican substitute, a real legislative line-item veto. And it also allows for consideration of my amendment to include special tax provisions as items that may be vetoed by the President.

But my amendment is allowed only as an amendment to the real legislative line-item veto to be offered by Representative CASTLE, a proposal that we do not quite possibly have the votes to pass in this body. My amendment was not made in order to be offered to the Democratic proposal, as I had requested of the Rules Committee, because it may jeopardize passage of the Democrat leadership position. My amendment, having to do with tax trinkets in addition to pork barrel spending on appropriation bills, has gained much popularity. The rule does preclude other amendments sought by Members to improve the bill. Amendments advocated by any Member, including Members on the Democratic side, freshman Members, that may jeopardize the ultimate conclusion sought by the Democratic leadership have been squelched by this rule.

So we really ought to have, as far as this Member is concerned, an open rule that also allows for consideration of my amendment that would allow, as I indicated, special-interest tax provisions to be vetoed by the President, as well as appropriation provisions.

By way of quick review, when we passed the tax bill in the last Congress, H.R. 11, it contained over 50 specific special interest tax provisions there that had nothing to do whatsoever with the original intent of the tax bill, and that was to fund enterprise zones for the cities as a result of the Los Angeles riots.

So a tax bill can be completely loaded up with special interest tax provisions by the Congress; not by the administration. The President ought to have an opportunity to remedy that. It is a very popular amendment that I conceived earlier on, and we would like to have it made in order to the base bill, which obviously has the most support because of the numbers game in this House. We are outnumbered on the Republican side by 83 votes. And so it takes much more than a unanimous vote on our side to pass anything around here—we need a significant portion of the votes from the Democratic side. In my opinion, considering the special-interest tax provisions is a legitimate issue. It should be debated in relation to presidential line-item veto authority of appropriation items.

Since this is not an open rule and since this is an attempt by the Democratic majority to guarantee passage of a mere shadow of a line-item veto, thereby precluding consideration of a real line-item veto, I urge a "no" vote on the rule.

I want to direct my attention particularly to some of our new freshman Members who came to this body particularly espousing a line-item veto. I have always supported a line-item veto, going back to the Carter administration days, I believe it is a good management tool. But it has got to have teeth if it is going to be worth anything and not simply expedited rescission, which, for all practical purposes, is speeding up the existing process by 25 days.

I urge all of the Members on our side, including our freshman Members, who may very well have come to this Congress thinking they are going to have an opportunity to vote on a line-item veto, to make the sharp distinction between what is real and what is phony. If we all stand together as a body and make the case that

the Democrat's proposal is not a real line-item veto, it will make sense to the American people because they say you cannot have 176 people on our side of the aisle be wrong.

This position is a judgment call on our part in the leadership, but we think it is a good one. And we have made some good progress in the last couple of weeks sticking together as a body and making our point in no, unmistakable, terms. That is the way you eventually get things done around here.

Mr. Speaker, I urge my colleagues to vote "no" on this rule until we get a better one that gives us the opportunity to do what the American people really want.

Mr. DERRICK. I yield myself such time as I may consume.

Let me just say that the leader on the line-item veto in this body for years and years and years, Mr. STENHOLM, is the coauthor of this bill that we have before us. He considers it legitimate, and so does most of the rest of the House.

Mr. SOLOMON. Would my friend yield?

Mr. DERRICK. Mr. Speaker, I yield for the purpose of debate only 90 seconds to the gentleman from Georgia [Mr. DEAL].

Mr. SOLOMON. Mr. Speaker, will the gentleman yield?

Mr. DERRICK. You have your own time. You can use it.

Mr. SOLOMON. The gentleman won't yield?

Mr. DERRICK. You have your own time. You can use it.

Mr. SOLOMON. Just trying to be polite to my friend. If you don't want to be polite, fine.

The SPEAKER pro tempore (Mr. DURBIN). Regular order.

The gentleman from Georgia [Mr. DEAL] is recognized for 90 seconds.

Mr. DEAL. Mr. Speaker, there are times when historic events engulf us, moments in time when the significance of them are magnified by our reflection upon them. I suggest to you that today is such a time.

It is the first, and perhaps the last, time that we will have the opportunity to vote on the line-item veto. I urge you to vote for the rule so that the merits of both the Democratic proposal and the Republican proposals may be considered. Do not be deceived. This is the vote on the line-item veto.

If you vote against the rule and block its consideration, you will never have the opportunity to properly explain it away.

No, it is not a constitutional amendment. But are you willing to wait for the years that it will take to ratify a constitutional amendment?

No, it is not all that some of us would like to have, but it is the first significant step toward fiscal responsibility that has been laid before us.

It is time to put principle ahead of party. It is time to vote on measures based on their merits rather than where they fit into somebody's political agenda.

The public is tired of political posturing. I urge you to vote for the rule and to vote for the line-item veto.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume.

The reason I wanted my good friend, the gentleman from South Carolina [Mr. DERRICK] to yield, was that I wanted to read the gen-

tleman's statement on April 1 in the RECORD of Mr. STENHOLM, who absolutely opposed the line-item veto. Mr. STENHOLM says:

"I will oppose that. I have always opposed the pure line-item veto. I do not believe in giving any President one-third plus one veto authority on the works of the Congress. I think it unbalances the balancing power."

The gentleman from Texas [Mr. STENHOLM] will be on this floor later. He will tell you that he opposes the line-item veto.

Mr. DERRICK. Mr. Speaker, will the gentleman yield for a moment?

Mr. SOLOMON. Out of courtesy, Mr. Speaker, the gentleman would not yield to me, but I am glad to yield to the gentleman.

Mr. DERRICK. Mr. Speaker, I think the gentleman is going to enjoy hearing what I have to say. I misspoke. The gentleman is correct.

Mr. SOLOMON. Mr. Speaker, I thank the gentleman so much. I have always said, the gentleman is a gentleman.

Mr. Speaker, I yield 2 minutes to the other gentleman from Pennsylvania [Mr. CLINGER].

Mr. CLINGER. Mr. Speaker, I join with the minority leader in rising in strong opposition to this rule. It is more than a little disappointing that the very first bill to be brought to the floor from the Government Operations Committee during the 103d Congress, the very first bill that I will be managing as the ranking Republican of the committee, was never voted on by the committee, never debated by the committee, never subjected to normal and appropriate committee procedures.

Mr. Speaker, that is not the way to do business and I am not going to begin my tenure as the committee's ranking member by supporting such a travesty.

Earlier this month, I testified with others before the Rules Committee expressing my very deep concerns with this distortion of the committee process. Although the Government Operations Committee conducted one legislative hearing this year on the general issue of enhanced rescission authority, no regular markup was held and no opportunity was given to Members on either side of the aisle to offer amendments to the measure under consideration, although several of the minority members had an interest in offering amendments.

So what we have, Mr. Speaker, is a gag. It is not going to permit amendments to be brought forward, and given the procedure and the fact there has been a lot of criticism of the vehicle we are going to vote on, and the Wall Street Journal article has been alluded to, let me put in just one other quote:

"Today, the House will likely debate something called 'expedited rescission.' It is to the line item veto what chicory flavored water is to Colombian coffee. It may look the same but one taste tells the tale."

So given the fact that we are getting a watered-down weakened version of a true line-item veto approach, we need to have an open rule to allow this measure to be improved.

It is too easy for the majority party, with a Democrat in the White House, to abuse the House rules and minority rights by bypassing the normal committee procedures and then allowing but

very few amendments to be considered on the floor, and those amendments in a way that stacks the deck so that the majority version will pass basically unencumbered with any amendments offered by the minority.

This practice effectively cuts off any opportunity for Members from either side of the aisle to participate in the legislative process. It should be the interest of all House Members that legislation like this be fully considered by the appropriate committees before it reaches consideration on the House floor.

Because it was not, and because we have not been given the opportunity to fully offer amendments, I urge the rejection of this rule.

Mr. DERRICK. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to take this opportunity to point out, since the Wall Street Journal editorial has been referred to several times, that the bill this editorial is about was abandoned last year. I would suggest to those who wrote it that they ought to keep up with us.

Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from Arizona [Mr. COPPERSMITH].

Mr. COPPERSMITH. Mr. Speaker, I thank the gentleman from South Carolina for yielding this time to me.

I urge all Members, both Democrats and Republicans, to support this rule.

If you truly want a line-item veto, this is the vote. This rule allows us to debate and vote on the two major line-item veto proposals, the Castle-Solomon one-third plus one, as well as the Spratt-Stenholm 50 percent plus one.

Do not be fooled by the rhetoric today. This vote will show who really wants a line-item veto and who just wants a line-item veto issue.

If you believe in the one-third plus one approach, as I do, this rule is our chance. If this rule is rejected, we will have lost the chance to enact the line-item veto.

The National Taxpayers Union is not fooled, and that is why the NTU has made this vote on the rule a key vote, showing who is a friend of the taxpayer and who is just not serious.

You have to pass the rule to decide whether to order coffee or chicory.

Finally, let me make a special plea to my freshmen Republican colleagues by quoting some of their own words. On April 1 in the well of this House, my colleague from Ramsey, MN, said:

"And it is the Democrats, not the Republicans, who are keeping the President from getting the line-item veto he wants."

Well, please do not allow the Republican leadership to stop the President from getting the line-item veto.

My distinguished friend from Shaker Heights, OH, said:

"Mr. Speaker, I am very disappointed with my colleagues. I hope that maybe they will come around and realize that it is not the Democrat leadership that they belong to. They belong to the people of the United States of America who elected them, believing that maybe reform would happen with their help."

Well, the issue is simple. If you want the line-item veto, you must vote "yes" on the rule.

Mr. SOLOMON. Mr. Speaker, I yield 3 minutes to the gentleman from Florida [Mr. GOSS], a member of the Committee on Rules.

Mr. GOSS. Mr. Speaker, I thank the distinguished ranking member, the gentleman from New York, for yielding me this time.

Today, some Democrat colleagues are going to tell the world that they have changed their minds and they are now ready to pass a line-item veto—something they have fought vehemently for years. Wrong. This bill before us today is not a true line-item veto nor does it even come close. What we have before us today is something called expedited rescission, not enhanced, not expanded, but expedited. It does not put the brakes on runaway spending—it does not add much to accountability. It is speeded up status quo, dressed up to pretend it is a line-item veto.

Imagine a 100-foot high building on fire with a man on the roof crying for help. The Democrat bill would be a flyover above this 100-foot highrise with words coming out of the helicopter saying, "Don't worry—we'll save you with our certified rescue package." The problem is, the rescue package they offer is a 30-foot-long rope and will leave that man hanging 70 feet off the ground while the building burns around him. That 30-foot rope is a far cry from what is needed to save our burning economy.

If the Democrat leadership were really serious about a true line-item veto—like the legislative line-item veto offered by Mr. CASTLE and Mr. SOLOMON—they would have attached it to the debt limit extension that was rammed through this House in the wee hours just before the Easter recess, as you will recall. That debt limit bill has already become law—and with it the line-item veto could have already been law, too. But as they have been doing a lot lately, the Democrat leadership in the Rules Committee said "no," not just to the minority, but to their own Democrat freshmen as well, who saw the debt limit bill as the surest way to ensure real budget process reform, and they refused their amendment then. But that is past history.

Here we are today with yet another restrictive rule—in fact the 10th out of 10 so far this Congress—debating the merits of that 30-foot rope. As a former mayor and county chairman responsible for balancing budgets I can say to this bill: "I know the line-item veto; I've worked with a line-item veto—and you're no line-item veto!"

Under this rule we have one amendment offered by the freshmen Republicans and Mr. SOLOMON to add some teeth to this measure and I urge my colleagues to support it. But what happened to the proposal by the Democrat freshmen? And the proposals to make budget reform permanent instead of a 2-year experiment? And the one offered by our minority leader designed to stop special interest tax breaks? All these were effectively shut out by the Democrat majority on the Rules Committee—the same majority that will have the power under this bill to simply waive the rules and make its provisions useless, as has happened before.

If we go through the motions here today and adopt this expedited rescission bill, I expect the status quo Democrat majority to declare the issue of the line-item veto resolved. In fact, I read in this week's CQ that the primary reason this issue is being brought up

at all is because the Democrats want to get it off the table and put it under the rug, it seems. But the debt will continue to go up and the waste will continue—and we may have lost our chance to turn things around.

Please, do not be fooled. This is not line-item veto—this is not son of line-item veto—this is not even a distant cousin of line-item veto. Do not accept this stand-in for reform. Stand up and fight for the real thing. Vote “no” on this rule.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 3 minutes to the gentleman from New Mexico [Mr. RICHARDSON].

Mr. RICHARDSON. Mr. Speaker, I rise in strong support of the rule. Why is this important? First, Mr. Speaker, the President of the United States should be given the ability to cut out pork and what is questionable in the budget. Number 2, the American people want the line item veto. We have tried Gramm-Rudman, we have tried the constitutional amendments to balance the budget, we have tried budget summits, and nothing has worked.

Mr. Speaker, the President has for the first time the first serious budget reduction package before us. He wants a line-item veto. He is serious about it.

Constitutionally, Mr. Speaker, this, in my judgment, is sound. The legislative branch is protected. It is a 2-year experiment.

Second, the House, the Senate, the Congress, can override the rescission package. The ability for the Congress to promote a new rescission package is there.

Mr. Speaker, the most important reason why we should support this rule, and a lot of Members have different views on line item veto because of their concern for the legislative branch losing some of its power, is that we allow this debate to take place. If this rule is defeated, we cannot, and I repeat, we cannot, vote on one of the President's main initiatives as a President.

I served as the chair of the drafting committee of the platform. President Clinton as a candidate, as a Governor, has supported the line-item veto, and we are ready to look at it for 2 years. Maybe in 2 years, constitutionally, structurally, there will be questions. We can revisit it again.

But I say for the credibility of this body, of the Government, of the executive legislative relationship, let's give the President this authority to cut out questionable spending. Most States have this authority. Most Governors do.

Mr. Speaker, I think this is going to result in fiscal discipline. It is going to result in a better relationship between the two branches, and I think we owe it to the fact that the American people want change, and they want us to vote for different approaches to the deficit. The President proposed this in his package, an essential element of his package is this modified line item veto, and I urge support of the rule.

As a nation, we face many difficult problems and, due to the Federal deficit, we are unable to respond as we should. Whether the issue is health care, education or job creation, we are hamstrung and simply lack the resources to act in a forceful and responsible manner. Stated plainly, we must cut the deficit in order to function as an effective Government.

We must make tough choices in order to cut spending and put our economic house in order. Unfortunately, we have proven, year in and year out, that we lack the discipline to make those choices and, therefore, I believe that we need to create structures that will give us the confidence and ability to cut when necessary. For that reason I support H.R. 1578, the Expedited Rescissions Act and, in the past, supported the Gramm-Rudman Deficit Reduction Act and the 1990 budget agreement.

The enhanced rescissions Act is simple, it gives the President a greater ability to pinpoint cuts he wants to make. The bill is crafted carefully and fully protects the jurisdiction of the legislative branch by providing for a simple majority override of the President's cuts. It then enables the Congress to draft an alternative rescission package. This plan is responsible and, at the same time, brings us much closer to sound fiscal management.

Mr. Speaker, I strongly support this bill but realize that others may not. Nonetheless, I strongly ask for their support on the rule. Poll after poll show that the American people want tougher fiscal controls and doubt that we have the ability to make the difficult economic choices. President Clinton has asked for enhanced rescission and I think that we must put the issue to a vote. I will vote for H.R. 1578 but understand that others will vote against it. What we must do today is give it a fair hearing. Only by passing the rule and debating the bill on the floor can that happen.

Mr. Speaker, I urge my colleagues to support the rule. I yield back the balance of my time and thank my friend from South Carolina.

Mr. SOLOMON. Mr. Speaker, I yield 2 minutes to the gentleman from Alabama [Mr. EVERETT], a very distinguished freshman Member from Midland City.

Mr. EVERETT. Mr. Speaker, I thank the gentleman from New York [Mr. SOLOMON], my friend, for yielding this time to me. He represents New York by way of Echo, AL.

Mr. Speaker, I rise today again in opposition to this rule and again to call on Republican and Democratic freshmen to put aside partisanship and vote against this rule.

This is not a line-item veto. It is, as the Wall Street Journal commented in today's editorial, a line-item voodoo.

Many Members, new and old alike, promised the American people they would give the President a line-item veto. Candidate Bill Clinton campaigned for the line-item veto. Yet, surprise, after the election, Mr. Speaker, nobody seems really interested in a true line-item veto.

Mr. Speaker, what is being offered instead is a poor substitute that is designed to fool the public and do nothing to curb the appetite of this Congress from spending. As the Wall Street Journal says, it is to a line-item veto what chicory flavored water is to Colombian coffee. It might look the same, but one taste tells the tale.

What the President would have to do is sign an entire spending package and attach a list of spending items he agreed with and then ask the Congress to eliminate them. Where is the line-item veto? He will not even be allowed to reduce an existing program below the previous budget. Where is the line-item veto? Mr. Speaker, where is the beef?

The people in my district elected as their Representative someone who had never been involved in politics. They did that because they lost faith, unfortunately, in the Congress. They did that because they were angry at politicians telling them one thing and doing something else.

This rule represents that kind of thinking, my colleagues, and I would add that the American people will not be fooled by it.

Vote this rule down, and let us bring a true line-item veto to the floor.

I will tell my colleagues what time it is, Mr. Speaker. It is time to tell the American people the truth.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 1 minute to the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Speaker, this is not a vote today on a line-item veto. This is a vote today to expand the power of the Presidency.

The Constitution is clear. Congress spends, Congress cuts. The problems in America will not be solved by giving the President a red felt tip pen.

My colleagues, Congress is afraid of its shadow. Congress will not cut. Congress is afraid, and, if we take the power and give it to the President, where does that power come from, if not from the people?

And let me say this: One man's trash is another man's treasure. I was not for expanding the power of the Presidency under a Republican administration, and I am not going to be a hypocrite. I am not for taking power from the people, investing it in the White House in a Democrat administration.

Mr. Speaker, the President is not going to solve our budget dilemma. It should be Congress, and I do not want to see Congress wimp out and sell the Constitution out to do it.

I appreciate having been yielded this time, Mr. Speaker.

Mr. SOLOMON. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. Mr. Speaker, I want to talk about two things. First of all, Mr. Speaker, I want to talk about closed rules. The American people do not understand how this place works, so it is time for us to explain that.

I say to my colleagues, "When you have a closed rule, you cannot debate the issue fully, and the Democrat Rules Committee has continually this session of Congress sent closed rules to the floor."

We are not going to be able to vote today on a line item veto because of the way this rule is structured. We are going to do it on their terms. They are trying to ram through everything President Clinton wants without full debate and disclosure.

Mr. Speaker, of all the rules we have had on the House floor, none have been open. In the past, 82 percent of the rules have been open. During this session, zippo, none, and that is why we have Lady Liberty gagged and hope the American people understand that.

In addition to that, Mr. Speaker, we have had 10 rules this session, and, out of the 10 rules, all have been closed, 100 percent, and that means that all the people that we represent, 600,000 people apiece, do not have a voice in this Congress because the Com-

mittee on Rules continues to gag them and will not allow them to be heard.

Finally, Mr. Speaker, the Speaker of this body, the gentleman from Washington [Mr. FOLEY], said he expects open rules within a matter of a very few days on major legislation. If a line-item veto is not major legislation, then what is it? And he said this on Monday, and they are sending a closed rule down here.

The fact of the matter is the people are not getting the straight story from the Democrat Party. They want to ram through \$402 billion in new taxes, another \$145 or \$150 billion for Hillary Rodham Clinton's health care program, and they are calling that democracy. Baloney. It is just plain baloney.

What we want is open rules. We want a straight up or down vote on a real line-item veto, not this enhanced rescission.

My colleagues know what it is. It is baloney, and the American people ought to know it is baloney. We want a vote on a straight line-item veto, and I hope the Committee on Rules one day will be fair.

Mr. DERRICK. Mr. Speaker, for the purposes of debate only, I yield 1 minute to the gentleman from Washington [Mr. INSLEE].

Mr. INSLEE. Mr. Speaker, I rise in favor of this rule and urge my colleagues to support it. I do this for two reasons. I have a perspective that is perhaps unique in this debate. I am one of the Democratic freshmen who supported an amendment that will not be considered under this rule. But for two reasons, I believe it is imperative that we pass this rule.

The first is that it should be very clear that killing this rule kills line-item veto in any shape or form in this year. You can shape it, you can shade it, you can color it, but a "no" vote is a vote to kill any shape of the line-item veto this year.

Those who believe that it is more important for the future of this country to make some political point about rules than to adopt a tool that can cut our deficit do not share my belief that the fundamental and No. 1 problem in our country is that deficit.

This bill will not give the Executive untoward power. It will simply allow the President to shine a spotlight on a spending proposal.

Mr. Speaker, I further believe in one principle that is engraved in this rostrum, and that principle is union. There are those who do not share my belief in the wisdom of this bill at all. To them I say that I urge them to vote in favor of this rule for principles of union. We must at times subjugate our personal beliefs and our personal wishes to union.

Mr. Speaker, I urge the Members to vote in favor of this rule.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 3 minutes to the gentleman from Oklahoma [Mr. SYNAR].

Mr. SYNAR. Mr. Speaker, the proposition before us today is very simple. Do we want to act like Members of Congress and continue to exercise the constitutional authority granted to us by our Founding Fathers, or do we want to turn our backs on responsibility and support an ill-conceived public relations gimmick. Why do I say this? H.R. 1578 is another in a long line of budget gimmicks that won't work, is not needed, is of questionable constitutional value, is inherently flawed, and is just plain irresponsible.

H.R. 1578 will not work. The bill is designed to decrease spending by making Congress vote up or down on the individual programs in appropriations bills which the President has singled out for rescission. Many fear that this will actually increase deficit spending because it gives Congress an incentive to present larger budgets to the White House in order to guard against Presidential rescission power.

In addition the GAO has flatly stated that "rescissions cannot be expected to be a major tool for reducing the deficit." The GAO reasons that rescissions have little deficit cutting impact because they are limited to the discretionary portion of the budget and do not touch the 61 percent of the budget comprised of mandatory spending—interest on the national debt, entitlements—including escalating health expenditures. Since 1974 the total enacted rescissions—\$69.2 billion—comprise just 3 percent of the cumulative deficits incurred during that period.

H.R. 1578 is a remedy in search of a problem. It's not needed because the current rescission process works to reduce deficit spending. From 1974 to the present, Presidents have proposed \$69.2 billion in rescissions and Congress has responded by approving \$21.3 billion of the requested rescissions and initiating \$65.1 billion of its own cuts for a total of \$86.5 billion in rescissions. In short, since 1974 Congress has enacted almost \$20 billion more in rescissions than Presidents have requested.

H.R. 1578 is also not needed because there already exists within the Impoundment Control Act a special discharge procedure which permits 20 percent of the Members of either House to force a floor vote on any Presidential rescission proposal. This provision should be sufficient to ensure that any proposal having adequate congressional support to suggest the possibility of approval could be brought up for debate and a prompt up-or-down vote. If the proposal cannot even get 20 percent support then it is unlikely that it would ever be approved.

H.R. 1578 is of questionable constitutional value. First, the bill amends the rules of the House by statute. This contravenes article 1, section 5 of the Constitution determines that Congressional Chamber determine the rules of its own proceedings. The current proposal essentially amends the rules of both the House and the Senate by statute; that is, the Senate and the President determine the rules of the House and the House and the President determine the rules of the Senate.

Second, the bill could violate the principle of bicameralism. The bill makes no provisions for a conference should the House pass its Appropriations Committee alternative, and the Senate pass either the President's proposed rescissions or its own Appropriations Committee alternative or visa versa.

If the conference arises from current House and Senate rules—which is not clear from the bill—then what happens if only one Chamber passes the conference report or if neither Chamber chooses to act on the conference report? Technically both Chambers would be in compliance with H.R. 1578 but there would be no final action on any rescissions package. None of these questions are answered by the bill and all of them could lead to bicameralism problems.

It skews the balance of power between the Congress and the President. The proposal advances Presidential spending initiatives at the expense of legislative spending initiatives. Under the bill's procedures the President could rescind 100 percent of the appropriations for the Legal Services Corporation or 100 percent of the appropriations for cruise missiles.

Granted the House and Senate could offer an alternative rescissions package but the alternative must, first be within the same appropriations act as the rescissions the President proposed and second the amount of budget authority rescinded must be equal to, or greater than the rescinded budget authority proposed by the President. Also any proposed congressional alternative package could be vetoed by the President in which case Congress would have to overcome the veto by a two-thirds majority vote.

While either Chamber could restore the program targeted for rescission by a simple majority, the proposal forces Congress to adopt or reject each of the President's proposed rescissions. This gives the President enormous new power to set spending priorities. The President gets an expedited procedure and the Congress gets no more than an up-or-down vote.

The President would also have new power to set the legislative agenda through the use of the rescissions process. The bill would make all 13 yearly appropriations bills, plus any other appropriations bills—for example, emergency supplemental bills—subject to the rescission procedure. This would give the President up to 20 bills per year to exercise his rescissions powers and impact the legislative agenda.

The measure also gives the President added new leverage over individual Members. The President could negotiate a rescission, or a lack of a rescission, on an appropriation of particular concern to a Member in exchange for the Member's action on other legislative business.

There is also a potential one House veto problem in the bill. As drafted the House can vote down both the President's rescission proposal and its own proposal and the Senate does not have to act. Should the House approve the President's plan, or its own plan, the Senate could exercise its own one Chamber veto by voting down both the President's plan and its own plan. In short the rescinded funds can be restored by the action of a single Chamber. This single House action raises serious constitutional concerns.

H.R. 1578 as drafted contains a procedural flaw. The bill requires that Congress act within 10 legislative days on the President's rescission request. Without action, no spending occurs. Should Congress adjourn at the end of the current session, before the President sends his rescission message to Congress, no spending could occur until Congress reconvened in January 1994 and acted on the rescission legislation. In effect spending on the President's rescinded programs could be halted for 3 months due to this flaw in the bill.

H.R. 1578 is just plain irresponsible legislation. It is a gimmick that gives the President the power to do what should be Congress' responsibility under the Constitution. Ironically, the bill, which its proponents claim is a vote for fiscal responsibility, doesn't even require a recorded vote during the consideration of the rescissions

packages. Why would Congress pass a bill that gives a measure of their spending power to the President? So Members don't have to make the tough choices the Constitution and our constituents expect us to make.

Mr. Speaker, I implore my colleagues to remember their oath of office, their constitutional obligations, but most of all remember why they came here—to make tough decisions and to make a difference. This legislation must fail because we must legislate for the next generation, not the next election.

Mr. SOLOMON. Mr. Speaker, I yield 2 minutes to another freshman Republican, the gentleman from Oklahoma [Mr. ISTOOK].

Mr. ISTOOK. Mr. Speaker, I am amazed to hear some Members actually stand up and call this particular piece of legislation a line-item veto.

One of the favorite stories that Abraham Lincoln told went something like this: How many legs does a dog have if you call his tail a leg?

The answer is, Four, because calling a tail a leg doesn't make it so.

I do not care how many times you call this particular piece of legislation a line-item veto, it is not, and it is nowhere near it.

I was amazed to hear one of my freshmen colleagues on the other side of the aisle say that this is our only chance this year to vote for a line-item veto. Oh, really? Says who? Who made that decision that nothing else can come to the floor of this House for a line-item veto? Let us name names. If somebody made that decision to thwart the will of 80 percent of the American people who want a line-item veto, let him stand up and be counted or keep on hiding behind closed doors and behind closed rules. This is not a line-item veto.

One of my favorite movies while growing up was Tony Curtis starring in "The Great Impostor." That was Albert DeSalvo. Sometimes he was a priest, sometimes he was a surgeon. Who knows what he might be next? One thing he never did in the movie, though, he never got himself elected to Congress. Sometimes I wonder, is "The Great Impostor" hiding among us here when you can take something like this and label it a line-item veto? No, it is "line-item voodoo."

You cannot cut any pork unless Congress or most of Congress by a majority vote says, "We want to cut it." Where is the veto in that? Where is the two-thirds margin that the people of America expect to override a Presidential veto.

We need to have a real line-item veto and an open rule that also attacks the problems with the tax bills that bring pork into them, such as was offered under an amendment that was not permitted by this rule.

Mr. Speaker, I ask the Members to oppose the rule, and let us keep up the fight for a true line-item veto, not "line-item voodoo."

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 1 minute to the gentleman from Utah [Mr. ORTON].

Mr. ORTON. Mr. Speaker, I rise actually in reluctant support of this rule. I am in strong support of the enhanced rescission package. I favor it. In fact, I am a cosponsor of it.

I believe, however, that our rule should allow more debate and discussion on amendments. In fact, I have two amendments that I wanted to propose myself. One of them expands this authority to tax expenditures; the other expands the contract authority. I think they should be made in order. I think we should have the opportunity to debate and vote on those issues, and in fact, if I were convinced that by defeating this rule we would be able to come back with a better rule to present these items, I would oppose this rule and vote against it.

I am, however, convinced that if we defeat this rule, we will defeat any opportunity for enhanced rescission. We must have enhanced rescission. I believe it so strongly that I am willing to wait to present my amendments until 2 years from now when we will have an opportunity to make permanent the enhanced rescission provision.

So Mr. Speaker, I encourage all my colleagues to vote in favor of the rule and in favor of the bill.

Mr. SOLOMON. Mr. Speaker, I yield myself 30 seconds just to tell the gentleman who just spoke that there is no question that if the rule is defeated, the Democrat leadership is going to bring a bill back on this floor, because there are veteran Democrats who were hung out to dry when they voted for the stimulus package and it went down, and there are freshmen Democrats who were hung out to dry because they had to vote for raising the debt limit. They are demanding a vote, and there will be another chance out here for that. That is why we should defeat this rule.

Mr. Speaker, I yield 1 minute to the gentleman from Texas [Mr. DELAY].

Mr. DELAY. Mr. Speaker, the gentleman from South Carolina [Mr. DERRICK] said that this was the fairest rule that they could bring to the floor. They cannot even recognize that the fairest rule that could come to the floor is an open rule. That is the fairest rule that they could bring to the floor.

Let me tell the Members this, too, about unfairness: coopting the freshman Democrats. Mr. Speaker, we have had freshman Democrat after freshman Democrat talk about this rule as being the vote on line-item veto.

Did you know, I say to the freshmen, that a one-third vote could kill any rescission? That is a one-third vote. This is how it works, and obviously your leaders did not tell you about that.

Mr. Speaker, the President has to sign the bill sent him. Then he sends us a list of rescissions he wants to make. In 20 days we have to pass a resolution approving the rescissions.

Mr. Speaker, do you know what they can do, especially in this Committee on Rules? They can take this bill and put it on the Suspension Calendar, and one-third of the House can stop the approval of the rescission. That is not the line-item veto. That is not even majority line-item veto. That is a sham. Do not be coopted. Vote against this rule.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 3 minutes to the distinguished gentleman from Texas [Mr. STENHOLM].

Mr. STENHOLM. Mr. Speaker, there has been a lot of rhetoric today about this rule, most of which has not been actual. I want

to ask the gentleman from New York [Mr. SOLOMON] a simple question: Is H.R. 24 that the gentleman has authored a sham, baloney line-item veto bill, or is it not a true line-item veto as the gentleman from New York believes it?

Mr. SOLOMON. Mr. Speaker, if the gentleman will yield, H.R. 24 is in the form of the Castle-Solomon amendment, which is a true legislative line-item veto.

Mr. STENHOLM. Mr. Speaker, reclaiming my time, does not this rule make under consideration under 1 hour's debate the amendment that the gentleman from New York [Mr. SOLOMON] wishes to offer?

Mr. SOLOMON. Mr. Speaker, if the gentleman will yield further, it does. But it does not allow us to change it. It does not allow us to offer it to Spratt-Stenholm, and it does not allow the targeted tax provisions by Mr. MICHEL, which every tax organization in the country wants us to offer on this floor today.

Mr. STENHOLM. Mr. Speaker, reclaiming my time, the gentleman from New York [Mr. SOLOMON] has answered my question.

Mr. Speaker, I rise today in support of the rule to H.R. 1578, the Expedited Rescissions Act, which has also been referred to as modified line-item veto legislation. I stand in support of this rule for two reasons: First, because it is a fair rule that allows the House to consider major alternatives on this issue; and, second, because the taxpayers of this country are fed up with rhetoric and political games. They want us to debate and vote on line-item veto legislation so that we Members go on record on this issue. Much more importantly, they want us to pass legislation into law which encourages the elimination of wasteful spending.

This bill that we are discussing today, H.R. 1578, began in the 103d Congress with H.R. 1013, legislation which I had originally introduced with a bipartisan group of 80 of my colleagues. The text of H.R. 1578 made in order by the rule maintains the basic principle of the bill I introduced earlier this year—the requirement that Congress must vote up or down on Presidential rescission messages under an expedited procedure.

This new text reflects improvements made after extensive consultation and review to address concerns raised by Members on both sides of the aisle. In my opinion, any fiscal conservative who claims that this bill is weaker than H.R. 1013 or last year's H.R. 2164 either has not taken the time to study the changes or else has other reasons for intentionally misinterpreting the bill. I defy anyone who marches under the banner of fiscal responsibility to tell me how eliminating the limitation on the amount of authorized funds makes the bill weaker. Or please explain to me how removing the opportunity to strike rescissions from the package is bad. Or perhaps you could provide insight on the damage done by putting in place the roadmap for a second rescission package if the President's proposal is defeated.

We can argue about the merits—both substantive and political—of this approach as opposed to full line-item veto. But for those people who have enthusiastically supported enhanced rescission in the past and now bad mouth this version which is even stronger, I have waning patience and waxing frustration.

In addition to the modified line-item veto approach embodied in H.R. 1578, attention has focused on two other line-item veto proposals in the 103d Congress: The Duncan and Solomon bills, H.R. 159 and H.R. 24, that would effectively require a two-thirds vote to block Presidential rescissions; and the Michel bill, H.R. 493, which would allow the President to rescind tax items as well as appropriations items with a two-thirds vote necessary to override the President. Under the rule, the House will have the opportunity to debate and vote on both of these approaches.

Although I personally do not support the Castle-Solomon line-item veto amendment, I know that many Members do, and therefore I believe very strongly that the House should have the opportunity to debate and vote on this amendment, as well as the Michel tax amendment. I have consistently and adamantly advocated this position before the Rules Committee and with the leadership, and I am pleased with the Rules Committee for having granted a rule which will allow honest votes on the leading alternatives on this subject. I understand it has been suggested that in private I have argued in favor of a closed rule. That quite simply is not true and, frankly, I take offense with the suggestion that behind closed doors I might act contrary to my public position, which always has been to argue for up-or-down votes on major, substantive issues.

The issue of line-item veto authority has been debated for many, many years. The issues of balance of power, constitutionality, procedures for rescissions, et cetera have long been in the marketplace of ideas and debate. On the other hand, only very recently have the ideas of tax expenditures and contract authority been added to this debate. I believe that these two issues, tax expenditures and contract authority, very rightfully belong in the rescission debate. I am very eager to explore these concepts personally. I want to hear others with greater constitutional and institutional expertise than I debate the nuances of including tax expenditures and contract authority in rescission authority. I am considering introducing legislation embodying these two concepts in an effort to help further this discussion. I think it is highly likely that 2 years from now when we consider renewing the contract on this legislation, I will be prepared to vote for revisions of this sort. At this point, however, I do not believe the debate has matured to the point where we should be attaching these unexplored ideas to legislation which is likely to be signed into law.

During the last Congress, there were several unsuccessful efforts on procedural votes to bring the line-item veto to a vote. I supported these efforts on a few occasions, as did many of my friends on the other side of the aisle. Today we have the very opportunity that we were seeking through our procedural gymnastics, that being to vote up or down on the substance of the line-item veto. As one who seeks to avoid a cynical interpretation of events, I can only be baffled about why some Members would fight procedurally so hard for the chance to vote at one time, and then stomp into the dirt that very opportunity when it is handed to them today.

Make no mistake: If this rule is defeated, it is very unlikely that there will be another opportunity to vote on any version of line-item veto during this Congress.

More than two dozen business, taxpayer, and good government organizations are supporting H.R. 1578. I commend these groups for their proactive involvement and I will be submitting their letters of endorsement for the RECORD. The National Taxpayers Union has specifically addressed the issue of supporting the rule, which it encourages because the rule provides the opportunity for a clean vote on the issue of line-item veto. NTU points out that the only effective line-item veto will be the one that is enacted into law. Like NTU, which simply states, "A vote against the rule is a vote against consideration of the line-item veto," I do not understand how it can be argued that defeating this rule and preventing any line-item veto legislation from coming to the floor would be in the interest of American taxpayers. The vote on the rule comes down to this simple point.

I urge my colleagues on both sides of the aisle to give the American people a reason to feel good about their Government. I urge you to vote "yes" on the rule and when the rule is adopted, to support final passage of H.R. 1578.

For the RECORD, I include a letter from the National Taxpayers Union.

NATIONAL TAXPAYERS UNION,
Washington, DC, April 21, 1993.

Attn: Administrative Assistant/Legislative Director.

DEAR REPRESENTATIVE: Today's line-item veto votes will very likely be the most important votes on this issue during this Congress. The National Taxpayers Union (NTU) has long supported legislation that would enable the President to isolate and eliminate wasteful spending. For that reason, we want to be sure our position is clear to every Member of the House.

Our ultimate goal is passage of a line-item veto constitutional amendment. We support enactment of a statute as an interim step toward a full line-item veto amendment.

1. NTU urges you to support the rule, H. Res. 149, to allow a vote on both the "Legislative Line-Item Veto" and H.R. 1578, the "Modified Line-Item Veto." A vote against the rule is a vote against consideration of the line-item veto.

2. NTU urges you to support a motion to move the previous question. A vote to defeat the previous question is a vote against the line-item veto.

3. NTU urges you to vote against any motion to recommit. A vote to recommit is a vote to "kill" progress toward a line-item veto.

4. NTU urges you to vote for the "Solomon-Castle substitute," despite the fact that this measure stands little chance of becoming law in this Congress. This alternative is substantially the same as a full line-item veto, which has long been our preference.

5. If the "Solomon-Castle" substitute prevails, NTU urges you to vote for it on final passage.

6. If "Solomon-Castle" fails, NTU strongly urges you to vote for H.R. 1578, the "Spratt-Stenholm Modified Line-Item Veto." This bipartisan measure would greatly improve the current process, continue progress toward a full line-item veto and have a good chance of becoming law. A vote against H.R. 1578 is a vote against efforts to reduce wasteful pork-barrel spending.

7. Votes on both the Solomon-Castle substitute and final passage of H.R. 1578, with or without amendment, will be included in our annual rating of Congress. Votes on procedure may also be included in the rating if direct votes on the issue are unavailable. NTU will make every effort to publicize all votes on this issue.

Thank you for your consideration of our position. Please call me if you have any questions.

Sincerely,

AL CORS, Jr.,
Director, Government Relations.

Mr. DERRICK. Mr. Speaker, I yield 1 minute to the gentleman from South Carolina [Mr. SPRATT].

Mr. SPRATT. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I am the imposter that, along with the gentleman from Texas [Mr. STENHOLM], has brought this bill to the floor. I support it. It is a good bill. It is not a sham.

Mr. Speaker, the President of the United States has requested us to give him this power.

Mr. Speaker, the last time we voted on a piece of legislation very similar to this was last year. October 3, 1992, essentially the same bill that the gentleman from Texas [Mr. STENHOLM], along with Mr. Carper, brought to the floor. At that time the gentleman from Indiana [Mr. BURTON], the gentleman from Georgia [Mr. GINGRICH], the gentleman from Illinois [Mr. MICHEL], the gentleman from Florida [Mr. GOSS], the gentleman from Texas [Mr. DELAY], and the gentleman from New York [Mr. SOLOMON], most of the Republicans who have spoken against it, have called it preposterous, voted for this very bill.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I certainly would never refer to my good friend, the gentleman from South Carolina [Mr. SPRATT], or the gentleman from Texas [Mr. STENHOLM] as imposters. They both are very, very well respected Members of this House.

Mr. Speaker, I yield 1½ minutes to my good friend, the gentleman from Maryland [Mr. MFUME], a very well respected Member from the other side of the aisle.

Mr. MFUME. Mr. Speaker, I thank the distinguished gentleman for yielding.

Mr. Speaker, I rise today representing the position of the Congressional Black Caucus to argue that despite the disinformation that has been circulated on this floor, the Congressional Black Caucus remains in opposition to this bill.

Mr. Speaker, our position is one that has evolved out of a purity in principle. It is that purity in principle that divides us now as legislators on this matter, and it is important in this democratic process that we have the opportunity as we do today to debate it.

But let me just suggest that even the most naive student of constitutional history knows that the Constitution gives implied and stated powers, and that no legislator since the beginning of this Nation has come to the point that we are at today, and that is to give away, to cede unto the executive branch, those powers.

What ever happened to the notion of constitutional balance of power? The people whose pictures hang on this wall, Jefferson,

Washington, Clay, and others, recognized that. They embodied it in our Constitution. They gave us a sacred trust to maintain and keep that balance of power.

It is not so much about a line-item or rescission, it is about who the Executive will be tomorrow and next year and next decade and how that individual will use that particular power.

Mr. Speaker, I urge Members to be conscious about this and not buy into the rule or the notion that this sunsets.

Mr. Speaker, let me tell you something about the sun: it sets every day, but it also rises again, and this bill will be back before us if we pass it today, no matter what others say.

So few will remember what we say here today, but all will remember today what we do, and what we do is important. We will rue the day that we give away power like this.

Mr. Speaker, I urge Members to oppose this bill.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we have letters here from the United States Chamber of Commerce supporting the Castle-Solomon amendment. We have letters here from the Americans for Tax Reform really criticizing the National Taxpayers Union for riding the fence on this issue, and so am I. I often praise the National Taxpayers Union on this floor.

Mr. Speaker, it goes on and on and on. The Wall Street Journal, the Citizens for Sound Economy, and on and on and on.

Mr. Speaker, let me just say to the Democrats on that side of the aisle, I said it a few minutes ago, but there were not many on the floor, if you defeat this rule now you are going to have another chance within days, within days, to cast a vote on a true legislative line-item veto for which many Members campaigned last November and said they would come on this floor and vote. Because the Democratic leadership is not going to allow those that have been hung out there on the stimulus package and those that were hung out there on the debt ceiling, all of whom pledged they would not vote to raise that debt ceiling and would not vote for frivolous spending, they are going to have a chance to come out here next week and cast a vote on a true line-item veto. So do not let anyone hornswoggle you any differently. That is why you need to defeat this.

Mr. Speaker, if Members pass this rule and subsequently pass the bill of my food friend, the gentleman from South Carolina [Mr. SPRATT], and my good friend, the gentleman from Texas [Mr. STENHOLM], you simply are allowing the Committee on Rules at some time in the future to waive the rule and waive what you are passing here, which means you are doing absolutely nothing. You know that, and I know that, and you ought to vote no on this rule and do it now and let us have an opportunity to come out here in a free and open process, where all 435 Members of this body can cast votes and introduce amendments that really mean something to this piece of legislation.

Mr. Speaker, I urge Members to vote no on this rule.

Mr. DERRICK. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, my colleagues who serve on the Committee on Rules with me have had a number of opportunities to have an open rule but have turned each opportunity down. They know as well as I do, as much as they whine, that this rule is a fair rule. It gives us an opportunity to vote on the Republican substitute, which they consider to be a line-item veto. It gives us an opportunity to vote on the Spratt-Stenholm bill, which we consider to be a line-item veto.

They can put anything they want in their motion to recommit which is germane.

The Members who had the honor to serve in the previous Congress will recall that last year we passed a bill very much like the bill before us today. I managed that bill. I voted for it, and so did 311 others who joined me. Most spoke against that bill today. It was a good bill which would have changed things around here for the better.

It would have created accountability by giving a President the power he needs to block individual items in spending bills. Forty-three Governors have similar power, including the Governor of my State of South Carolina. In most States it apparently works fairly well.

Unfortunately, last year's bill died in the other body at the end of the session. In a way, I am pleased, because this bill is a better bill, and it is our responsibility to take it up and pass it today.

We have a new President who has asked for this modified line-item veto. His administration has worked long and hard with the Committee on Rules, the Committee on Government Operations, the House leadership, the gentleman from Texas [Mr. STENHOLM], and others to develop it.

Our new President has signaled an end to the business as usual of the past. He has confronted the deficit and challenged Congress and the American people to change.

Mr. Speaker, we have already voted for change this year in this House. We passed the President's budget. We passed the jobs bill, which died in a Republican filibuster in the Senate. And we should pass this key aspect of his program, too.

The line-item veto is not the only solution to our problems, but it is in part a solution. We owe it to the American people to give this a try. If it works, we can extend it. If it does not, we can try something else.

Our new President urged us, just yesterday, to pass this bill. I believe we owe it to him, and we owe it to the millions who voted for change, to give it a try.

This is a good rule. Many Members' concerns about the bill already have been addressed and incorporated into the base text.

The rule makes in order a Republican substitute, and provides an opportunity for the minority leader to offer his amendment on tax expenditures. And it does not restrict the motion to recommit.

I urge all Members to support the rule and to support the bill.

Remember, if we vote against this rule, we are voting against considering a line item veto. We are choking off everyone in this body, if we vote against this rule.

Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mr. RICHARDSON). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. SOLOMON. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 212, nays 208, not voting 12, as follows:

[Roll No. 144]

YEAS—212

Abercrombie	Dingell	Kildee
Ackerman	Dooley	Klecaska
Andrews (ME)	Durbin	Klein
Andrews (NJ)	Edwards (TX)	Klink
Andrews (TX)	Engel	Kopetski
Applegate	English (AZ)	Kreidler
Bachus (FL)	English (OK)	LaFalce
Baesler	Eshoo	Lambert
Barcia	Fazio	Lancaster
Barlow	Fields (LA)	Lantos
Barrett (WI)	Fingerhut	LaRocco
Beilenson	Flake	Laughlin
Berman	Foley	Lehman
Bevill	Ford (MI)	Levin
Bilbray	Ford (TN)	Lewis (GA)
Bishop	Frank (MA)	Lipinski
Bonior	Frost	Lloyd
Borski	Furse	Long
Boucher	Gejdenson	Lowe
Brewster	Gephardt	Maloney
Brooks	Geren	Mann
Browder	Gibbons	Manton
Brown (CA)	Glickman	Margolies-Mezvinsky
Brown (OH)	Gordon	Markey
Bryant	Green	Matsui
Byrne	Gutierrez	Mazzoli
Canady	Hall (OH)	McCloskey
Cantwell	Hall (TX)	McCurdy
Cardin	Hamilton	McDermott
Clayton	Harman	McHale
Clement	Hayes	McNulty
Clyburn	Hefner	Meehan
Coleman	Hinchey	Miller (CA)
Collins (GA)	Hoagland	Mineta
Condit	Hochbrueckner	Minge
Conyers	Holden	Mink
Cooper	Hoyer	Moakley
Coppersmith	Hughes	Mollohan
Costello	Hutto	Montgomery
Coyne	Inslee	Moran
Cramer	Jacobs	Murphy
Danner	Jefferson	Nadler
Darden	Johnson (GA)	Natcher
de la Garza	Johnson (SD)	Neal (MA)
Deal	Johnson, E. B.	Neal (NC)
DeFazio	Johnston	Oberstar
DeLauro	Kanjorski	Obey
Derrick	Kaptur	Olver
Deutsch	Kennedy	Orton
Dicks	Kennelly	Pallone

Parker
 Pastor
 Payne (VA)
 Pelosi
 Penny
 Peterson (FL)
 Peterson (MN)
 Pickett
 Pickle
 Pomeroy
 Poshard
 Price (NC)
 Rahall
 Reed
 Reynolds
 Richardson
 Roemer
 Rose
 Rostenkowski
 Rowland
 Rowland
 Rush

Sabo
 Sangmeister
 Sarpalius
 Sawyer
 Schumer
 Scott
 Sharp
 Shepherd
 Sisisky
 Skaggs
 Skelton
 Slattery
 Slaughter
 Spratt
 Stark
 Stenholm
 Strickland
 Studds
 Stupak
 Swett
 Swift

Tanner
 Tauzin
 Taylor (MS)
 Thornton
 Thurman
 Torricelli
 Traficant
 Unsoeld
 Valentine
 Vento
 Visclosky
 Volkmer
 Waxman
 Whitten
 Williams
 Wilson
 Wise
 Woolsey
 Wyden
 Wynn

NAYS—208

Allard
 Archer
 Armey
 Bachus (AL)
 Baker (CA)
 Baker (LA)
 Ballenger
 Barrett (NE)
 Bartlett
 Bateman
 Becerra
 Bentley
 Bereuter
 Bilirakis
 Blackwell
 Bliley
 Blute
 Boehlert
 Boehner
 Bonilla
 Brown (FL)
 Bunning
 Burton
 Buyer
 Callahan
 Camp
 Carr
 Castle
 Chapman
 Clay
 Clinger
 Coble
 Collins (IL)
 Collins (MI)
 Combest
 Crane
 Crapo
 Cunningham
 DeLay
 Dellums
 Diaz-Balart
 Dickey
 Dixon
 Doolittle

Dornan
 Dreier
 Duncan
 Dunn
 Edwards (CA)
 Emerson
 Evans
 Everett
 Ewing
 Fawell
 Filner
 Fish
 Foglietta
 Fowler
 Franks (CT)
 Franks (NJ)
 Gallegly
 Gallo
 Gekas
 Gilchrest
 Gillmor
 Gilman
 Gingrich
 Gonzalez
 Goodlatte
 Goodling
 Goss
 Grams
 Grandy
 Greenwood
 Gunderson
 Hamburg
 Hancock
 Hansen
 Hastert
 Hastings
 Hefley
 Herger
 Hilliard
 Hobson
 Hoekstra
 Horn
 Houghton
 Hufington

Hutchinson
 Hyde
 Inglis
 Inhofe
 Istook
 Johnson (CT)
 Johnson, Sam
 Kasich
 Kim
 King
 Kingston
 Klug
 Knollenberg
 Kolbe
 Kyl
 Lazio
 Leach
 Levy
 Lewis (CA)
 Lewis (FL)
 Lightfoot
 Linder
 Livingston
 Machtley
 Manzullo
 Martinez
 McCandless
 McCollum
 McCrery
 McDade
 McHugh
 McInnis
 McKeon
 McKinney
 McMillan
 Meek
 Menendez
 Meyers
 Mfume
 Mica
 Michel
 Miller (FL)
 Molinari
 Moorhead

Morella	Roybal-Allard	Synar
Murtha	Royce	Talent
Myers	Sanders	Taylor (NC)
Nussle	Santorum	Tejeda
Ortiz	Saxton	Thomas (CA)
Owens	Schaefer	Thomas (WY)
Oxley	Schiff	Thompson
Packard	Schroeder	Torkildsen
Paxon	Sensenbrenner	Towns
Payne (NJ)	Serrano	Upton
Petri	Shaw	Velazquez
Pombo	Shays	Vucanovich
Porter	Shuster	Walker
Pryce (OH)	Skeen	Walsh
Quinn	Smith (IA)	Waters
Ramstad	Smith (MI)	Watt
Rangel	Smith (NJ)	Weldon
Ravenel	Smith (OR)	Wheat
Regula	Smith (TX)	Wolf
Ridge	Snowe	Yates
Roberts	Solomon	Young (AK)
Rogers	Spence	Young (FL)
Rohrabacher	Stearns	Zeliff
Ros-Lehtinen	Stokes	Zimmer
Roth	Stump	
Roukema	Sundquist	

NOT VOTING—12

Barton	Henry	Schenk
Calvert	Hoke	Torres
Cox	Hunter	Tucker
Fields (TX)	Quillen	Washington

The Clerk announced the following pair:

On this vote:

Ms. Schenk for, with Mr. Washington against.

Mr. SARPALIUS, Mr. WHITTEN, Mrs. MINK, Mr. ABERCROMBIE, and Mr. BORSKI changed their vote from "nay" to "yea."

Mr. FAWELL changed his vote from "present" to "nay."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

April 2, 1993

[From the Congressional Record page H1881]

IV

103D CONGRESS
1ST SESSION

H. RES. 152

Providing for the consideration of the bill (H.R. 1578) to amend the Congressional Budget and Impoundment Control Act of 1974 to provide for the expedited consideration of certain proposed rescissions of budget authority.

IN THE HOUSE OF REPRESENTATIVES

APRIL 2, 1993

Mr. SOLOMON submitted the following resolution; which was referred to the Committee on Rules

RESOLUTION

Providing for the consideration of the bill (H.R. 1578) to amend the Congressional Budget and Impoundment Control Act of 1974 to provide for the expedited consideration of certain proposed rescissions of budget authority.

1 *Resolved*, That at any time after the adoption of this
2 resolution the Speaker may, pursuant to clause 1(b) of
3 rule XXIII, declare the House resolved into the Committee
4 of the Whole House on the state of the Union for the con-
5 sideration of the bill (H.R. 1578) to amend the Congres-
6 sional Budget and Impoundment Control Act of 1974 to
7 establish procedures for the expedited consideration by the
8 Congress of certain proposals by the President to rescind

1 amounts of budget authority, and the first reading of the
2 bill shall be dispensed with. After general debate which
3 shall be confined to the bill and the amendments made
4 in order by this resolution, and which shall not exceed two
5 hours, one hour to be equally divided and controlled by
6 the chairman and ranking minority member of the Com-
7 mittee on Rules, and one hour to be equally divided and
8 controlled by the chairman and ranking minority member
9 of the Committee on Government Operations, the bill shall
10 be considered for amendment under the five-minute rule.
11 It shall be in order to consider an amendment in the na-
12 ture of a substitute by, and if offered by, Representative
13 Spratt of South Carolina. The amendment in the nature
14 of a substitute shall be considered as read. It shall first
15 be in order to consider the following amendments: (1) a
16 substitute amendment offered by Representative Castle of
17 Delaware or Representative Solomon of New York; and
18 (2) an amendment thereto by Representative Michel of Il-
19 linois. Said amendments may only be offered by the named
20 proponent or a designee, shall be considered as read, and
21 all points of order against said amendments are hereby
22 waived. If the substitute amendment of Representative
23 Solomon is not agreed to, it shall then be in order to con-
24 sider two additional amendments to the amendment in the
25 nature of a substitute: (1) an amendment by Representa-

1 tive Michel of Illinois; and (2) a substitute amendment for
2 the amendment in the nature of a substitute by Represent-
3 ative Minge of Minnesota. Said amendments may only be
4 offered by the named proponent or a designee, shall only
5 be offered in the order specified, shall be considered as
6 read, and all points of order against said amendments are
7 hereby waived. At the conclusion of the consideration of
8 the bill for amendment the Committee shall rise and re-
9 port the bill to the House with such amendments as may
10 have been adopted, and any Member may demand a sepa-
11 rate vote in the House on any amendment adopted in the
12 Committee of the Whole to the bill or to the amendment
13 in the nature of a substitute. The previous question shall
14 be considered as ordered on the bill and amendments
15 thereto to final passage without intervening motion except
16 one motion to recommit, with or without instructions.

April 22, 1993

[From the Congressional Record page H2024]

IV

103D CONGRESS
1ST SESSION

H. RES. 159

Providing for the consideration of the bill (H.R. 24) to give the President line-item veto authority in appropriations bills for fiscal years 1994 and 1995.

IN THE HOUSE OF REPRESENTATIVES

APRIL 22, 1993

Mr. SOLOMON submitted the following resolution; which was referred to the Committee on Rules

RESOLUTION

Providing for the consideration of the bill (H.R. 24) to give the President line-item veto authority in appropriations bills for fiscal years 1994 and 1995.

1 *Resolved*, That at any time after the adoption of this
2 resolution the Speaker may, pursuant to clause 1(b) of
3 rule XXIII, declare the House resolved into the Committee
4 of the Whole House on the State of the Union for the
5 consideration of the bill (H.R. 24), to give the President
6 legislative, line-item veto authority over budget authority
7 in appropriations bills in fiscal years 1994 and 1995, and
8 the first reading of the bill shall be dispensed with. After
9 general debate which shall be confined to the bill and the

1 amendments made in order by this resolution, and which
2 shall not exceed two hours, one hour to be equally divided
3 and controlled by the chairman and ranking minority
4 member of the Committee on Rules, and one hour to be
5 equally divided and controlled by the chairman and rank-
6 ing minority member of the Committee on Government
7 Operations, the bill shall be considered for amendment
8 under the five-minute rule. It shall first be in order to
9 consider an amendment in the nature of a substitute by,
10 and if offered by, Representative Spratt of South Carolina.
11 The amendment in the nature of a substitute shall be con-
12 sidered as read. It shall next be in order to consider the
13 following amendments: (1) a substitute amendment of-
14 fered by Representative Castle of Delaware consisting of
15 the text of H.R. 1642; and (2) an amendment thereto by
16 Representative Michel of Illinois. Said amendments may
17 only be offered by the named proponent or a designee,
18 shall be considered as read, and all points of order against
19 said amendments are hereby waived. If the substitute
20 amendment of Representative Solomon is not agreed to,
21 it shall next be in order to consider an amendment by Rep-
22 resentative Michel of Illinois to the amendment in the na-
23 ture of a substitute, said amendment may only be offered
24 by Representative Michel or a designee, shall be consid-
25 ered as read, and all points of order against said amend-

1 ments are hereby waived. At the conclusion of the consid-
2 eration of the bill for amendment the Committee shall rise
3 and report the bill to the House with such amendments
4 as may have been adopted, and any Member may demand
5 a separate vote in the House on any amendment adopted
6 in the Committee of the Whole to the bill or to the amend-
7 ment in the nature of a substitute. The previous question
8 shall be considered as ordered on the bill and amendments
9 thereto to final passage without intervening motion except
10 one motion to recommit, with or without instructions.

September 27, 1993

[From the Congressional Record page H7035]

IV

103D CONGRESS
1ST SESSION**H. RES. 258**

Providing for the consideration of the bill (H.R. 493) to give the President legislative, line-item veto rescission authority over appropriations bills and targeted tax benefits in revenue bills.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 27, 1993

Mr. SOLOMON submitted the following resolution; which was referred to the Committee on Rules

RESOLUTION

Providing for the consideration of the bill (H.R. 493) to give the President legislative, line-item veto rescission authority over appropriations bills and targeted tax benefits in revenue bills.

1 *Resolved*, That immediately after the adoption of this
2 resolution the House shall resolve itself into the Commit-
3 tee of the Whole House on the state of the Union for the
4 consideration of the bill (H.R. 493) to give the President
5 legislative, line-item veto rescission authority over appro-
6 priations bills and targeted tax benefits in revenue bills,
7 and the first reading of the bill shall be dispensed with,
8 and all points of order against the bill and against its con-

1 sideration are hereby waived. After general debate which
2 shall be confined to the bill and which shall not exceed
3 four hours to be equally divided and controlled by Rep-
4 resentative Michel of Illinois, or a designee, and a Member
5 opposed thereto, the bill shall be considered for amend-
6 ment under the five-minute rule. At the conclusion of the
7 consideration of the bill for amendment the Committee
8 shall rise and report the bill to the House with such
9 amendments as may have been adopted, and the previous
10 question shall be considered as ordered on the bill and
11 amendments thereto to final passage without intervening
12 motion except one motion to recommit, with or without
13 instructions.

June 28, 1994

[From the Congressional Record page H5315]

IV

House Calendar No. 179

103D CONGRESS
2D SESSION**H. RES. 467**

[Report No. 103-565]

Providing for consideration of the bill (H.R. 4600) to amend the Congressional Budget and Impoundment Control Act of 1974 to provide for the expedited consideration of certain proposed rescissions of budget authority.

IN THE HOUSE OF REPRESENTATIVES

JUNE 28, 1994

Mr. DERRICK, from the Committee on Rules, reported the following resolution; which was referred to the House Calendar and ordered to be printed

RESOLUTION

Providing for consideration of the bill (H.R. 4600) to amend the Congressional Budget and Impoundment Control Act of 1974 to provide for the expedited consideration of certain proposed rescissions of budget authority.

- 1 *Resolved*, That at any time after the adoption of this
- 2 resolution the Speaker may, pursuant to clause 1(b) of
- 3 rule XXIII, declare the House resolved into the Committee
- 4 of the Whole House on the state of the Union for consider-
- 5 ation of the bill (H.R. 4600) to amend the Congressional

1 Budget and Impoundment Control Act of 1974 to provide
2 for the expedited consideration of certain proposed rescis-
3 sions of budget authority. The first reading of the bill shall
4 be dispensed with. General debate shall be confined to the
5 bill and the amendments made in order by this resolution
6 and shall not exceed one hour, with thirty minutes to be
7 equally divided and controlled by the chairman and rank-
8 ing minority member of the Committee on Rules and thir-
9 ty minutes to be equally divided and controlled by the
10 chairman and ranking minority member of the Committee
11 on Government Operations. After general debate the bill
12 shall be considered for amendment under the five-minute
13 rule and shall be considered as read. No amendment shall
14 be in order except those printed in the report of the Com-
15 mittee on Rules accompanying this resolution. Each
16 amendment may be offered only in the order printed in
17 the report, may be offered only by a Member designated
18 in the report, shall be considered as read, shall be debat-
19 able for the time specified in the report equally divided
20 and controlled by the proponent and an opponent, shall
21 not be subject to amendment except as specified in the
22 report, and shall not be subject to a demand for division
23 of the question in the House or in the Committee of the
24 Whole. All points of order against the amendments printed
25 in the report are waived. At the conclusion of consider-

1 ation of the bill for amendment the Committee shall rise
2 and report the bill to the House with such amendments
3 as may have been adopted. The previous question shall
4 be considered as ordered on the bill and amendments
5 thereto to final passage without intervening motion except
6 one motion to recommit with or without instructions.

[From the Congressional Record page D753]

EXPEDITED RESCISSIONS ACT

Committee on Rules. Granted a rule providing 1 hour of debate, on H.R. 4600, Expedited Rescissions Act of 1994. The rule makes in order only those amendments printed in the report to accompany the rule, to be considered in the order and manner specified in the report, with debate time also specified in the report. The amendments are not subject to amendment except as specified in the report, are considered as read, and are not subject to a demand for a division of the question. All points of order are waived against the amendments in the report. Finally, the rule provides one motion to recommit with or without instructions. Testimony was heard from Representatives Stenholm, Penny, Solomon, Dreier, Kasich, Quinn, Castle, and Blute.

July 14, 1994

[From the Congressional Record pages H5692-5700]

PROVIDING FOR CONSIDERATION OF H.R. 4600, EXPEDITED RESCISSIONS ACT OF 1994

Mr. DERRICK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 467 and ask for its immediate consideration.

Mr. Speaker, House Resolution 467 provides for the consideration of H.R. 4600, the Expedited Rescissions Act of 1994. The resolution allows up to 1 hour of general debate, 30 minutes equally divided and controlled by the chairman and ranking minority member of the Committee on Rules, and 30 minutes equally divided and controlled by the chairman and ranking minority member of the Committee on Government Operations.

The resolution provides that after general debate the bill will be considered as read, and makes in order only those amendments printed in House Report 103-565 accompanying the resolution, to be considered in the order and manner specified in that report.

The amendments in the report are: First, a technical amendment offered by Representative SPRATT or DERRICK or a designee, debatable for 10 minutes equally divided and controlled by a proponent and an opponent; second, an amendment in the nature of a substitute offered by Representative STENHOLM or a designee, debatable for 30 minutes, equally divided and controlled by a proponent and an opponent; and third, an amendment offered by Representative SOLOMON or his designee as a substitute for the Stenholm amendment, also debatable for 30 minutes equally divided and controlled by a proponent and an opponent.

The amendments are not subject to amendment or to a demand for a division of the question in the House or the Committee of the Whole, and all points of order against the amendments are waived.

Finally, the resolution provides for one motion to recommit, with or without instructions.

Mr. Speaker, shortly after taking office President Clinton outlined his plan to restore the American dream for us and our children.

The President's economic and deficit-reduction plan called for drastic change from the status quo. The President rejected the policies and practices of the past which quadrupled our debt in 12 years and left many Americans believing their Government doesn't work.

Today, nearly 17 months after the President offered his economic plan, and 11 months after its enactment by Congress, things have changed dramatically for the better. Our economy is strong. Employment is up. Unemployment is down. Confidence is up. Wages are up. Industrial production is up. Housing starts are up. Inflation remains low.

Mr. Speaker, most relevant to the measure I bring to the House today, the Federal budget deficit is down—way down. The entitlement cuts, revenue increases and 5-year freeze on discretionary spending enacted last year have slashed a deficit that topped \$290 billion in fiscal 1992 down to a projected \$200 billion or less this year, according to private economists and the Congressional Budget Office.

For the first time since the administration of Harry Truman, America is on the verge of enjoying 3 consecutive years of declining budget deficits. That is no mean feat, and it comes thanks to the tough medicine administered to the budget by the President and the Democrats in this Congress.

Although the deficit is falling and indications are that it will continue to fall in coming years, Americans clearly want us to take additional deficit-reduction action. This is why we are here today.

The legislation made in order by this rule would give the President one of the key deficit-reduction tools he sought last year, and which I believe we desperately need: A modified line-item veto.

Mr. Speaker, wasteful spending sometimes occurs because individual items escape scrutiny by being submerged in large appropriations bills.

Under current procedures a President cannot strike out individual items in appropriations bills. He must sign or veto the whole bill, whatever the consequences. H.R. 4600 would give the President an option he does not now have.

Under H.R. 4600, within 3 days of signing an appropriations bill the President could send the House a message and bill proposing to rescind, or cancel, individual spending items in that bill.

The President's proposal would be referred to the Appropriations Committee. That committee would have to report it to the floor without amendment within 7 days. The House would have to vote, up or down, on the President's bill within 10 days, and during this time the funds could not be spent. If the bill passed the House, it would go to the Senate for expedited consideration there, and if passed by the Senate, on to the President for his signature.

To avoid the chance a President might use this process not to reduce the deficit, but instead to promote his own pet projects, H.R. 4600 would allow the House Appropriations Committee to report to the House, simultaneously with the President's bill, an alternative. To qualify for expedited consideration, the committee's bill must propose to cancel spending from the same appropriations act the President drew his rescissions from, and it must propose to cancel an amount of spending equal to or exceeding the President's total.

If the committee reported an alternative, the House would first vote on the President's bill; if adopted by majority vote, the President's bill would go to the Senate for expedited consideration and the alternative would not be in order. If the House rejected the President's bill and passed the alternative, that bill would go to the Senate instead.

The Senate Appropriations Committee could also report an alternative bill. But it would not be in order to consider anything but the President's bill until the Senate first voted on and rejected the President's bill. The President is thus guaranteed a vote on his proposal.

If both Houses ultimately passed an alternative bill, then those funds would be canceled. Thus, under H.R. 4600, if either the President's bill or an alternative bill passed both Houses, spending will be cut and the American taxpayer would be the winner.

Mr. Speaker, H.R. 4600 is identical to a bill the House passed last year, H.R. 1578. That bill reposes in the two Senate committees to which it was referred over a year ago. We hope that the House passing another such bill will encourage friendly Senators to overcome powerful opposition in that body and pass this important deficit-reduction measure promptly.

Mr. Speaker, the President supports H.R. 4600. He believes with a modified line-item veto millions and maybe even billions of dollars might be saved. These are dollars which taxpayers sent to Washington to finance essential government activities, not to be squandered on low-priority projects which may lack broad support.

Quite simply, H.R. 4600 will create accountability. No longer will a President be able to sign an appropriations act containing wasteful items and claim he was powerless to block them.

No longer will Congress be able to force upon the President the dilemma of vetoing an entire act and shutting down the Government, or signing the whole thing, pork and all.

If Congress wants to indulge in pork-barrel spending, then a majority of either House need only stand up and be counted. If the President does not want to sign pork into law, then he has the responsibility to send it back. It is that simple. I believe it will work and it deserves our strong support.

The rule also deserves our strong support. In addition to a technical amendment by Representative SPRATT or myself, the rule makes in order a substitute for the bill by Representative STENHOLM and a substitute for the Stenholm amendment by Representative SOLOMON. The rule protects the minority's prerogative to offer a motion to recommit with instructions. I urge all Members to support the rule and the bill.

Mr. Speaker, I reserve the balance of my time.

Mr. SOLOMON. Mr. Speaker, we are often told around here that there is too little time to do this or that; or that we must have restrictive rules because the session is drawing to a close.

But today we are being told something quite different, even though there are less than 40 legislative days left in this session. We are being told that we have enough time to consider a bill that is identical to one we passed just last year and that is still pending over in the other body.

And the reason we are doing this, according to the Rules Committee majority report, is that we want to impress on the Senate how important we think this issue, and action on it, is.

The average taxpayer might think it would have been cheaper and less time-consuming to have the Speaker send a strongly worded letter to the Senate majority leader asking them to take up and pass our first bill. But then, that would be too easy; it makes too much common sense.

Mr. Speaker, the real reason we are here again today on the same bill is that the majority leader announced a couple of weeks ago that the House will consider a variety of budget process reforms as an alternative to the A-to-Z real spending cut plan. That's how it was announced.

Instead of A-to-Z real spending cuts, we are going to have C-Y-A process reforms. We will give you this transparent fig leaf to hide behind and hope nobody notices you are not really cutting spending.

Mr. Speaker, I can understand the reluctance of the Democratic leadership to enter into an open amendment process to cut spending and instead agree to almost anything else to keep Members off of the A-to-Z Discharge Petition No. 16, although I am a supporter of A-to-Z. But I don't understand the need to recycle old bills that are still pending in the other body.

However, we have decided to make the most out of this baffling situation by giving Members a chance to vote on two things they and the American people really want.

And believe me, my constituents in upstate New York and your constituents across this great Nation are not clamoring out there for something called expedited rescissions.

What the people really want is to give the President line-item veto authority to cut wasteful spending—something candidate Clinton said he was for during the 1992 campaign. It's something that 43 Governors already have. And it's something many of you pledged to support back in your last campaign. Now's your chance.

This rule will give Members an opportunity to vote on a real line-item veto in the Solomon-Castle-Cooper-Quinn-Blute substitute that will ultimately require a two-thirds vote to override the President's spending cuts and his repeal of special interest tax breaks.

The other thing the American people really want is for this Congress to reform itself—to change its way of doing things, make the laws it passes applicable to itself, and become a more representative, responsive and open body.

Unfortunately, that's something this rule does not now provide for. But we will give you a chance to change that by voting down the previous question and supporting an amendment to the rule making in order the joint committee's congressional reform bill under an open amendment process.

That bill has been stalled up in the Rules Committee for 5 months now with only hearings and no action. The time has come to act.

Our colleague, Mr. DREIER, has an amendment that will allow you to consider that bill as a further amendment to the expedited rescission bill, and to offer amendments to it. So vote "no" on the previous question if you want real reform of this Congress.

In conclusion, Mr. Speaker, we can still reform this Congress by voting down the previous question and making in order a bipartisan reform bill under an open rule. And we can still turn this sow's ear into a pork-buster by voting for the true line item veto embodied in the Solomon amendment.

Mr. Speaker, I include for the edification of Members the following documents:

MOTION AND ROLLCALL VOTES IN THE RULES COMMITTEE ON MARK-UP OF H.R. 4600, EXPEDITED RESCISSIONS ACT, THURSDAY, JUNE 23, 1994

1. Dreier Motion to Table and Substitute—Motion to table H.R. 4600 and consider and report instead H.R. 3801, the Legislative Reorganization Act of 1994. Motion ruled not in order by Chair.

2. Drier Motion to Table Bill—Motion to table H.R. 4600. Rejected: 3–5. Yeas: Solomon, Quillen and Dreier. Nays: Moakley, Derrick, Frost, Gordon and Slaughter. Not Voting: Beilenson, Bonior, Hall, Wheat and Goss.

3. Solomon Substitute—Motion to substitute text of H.R. 493 as introduced by Rep. Michel, a legislative line-item veto for appropriations and targeted tax benefit. Rejected: 3–5 Yeas: Solomon, Quillen and Dreier. Nays: Moakley, Derrick, Frost, Gordon and Slaughter, Not Voting: Beilenson, Bonior, Hall, Wheat and Goss.

4. Derrick Motion to Report—Motion to favorably report the bill to the House with the recommendation that it pass. Adopted: 5–3. yeas: Moakley, Derrick, Frost, Gordon and Slaughter. Nays: Solomon, Quillen and Dreier. Not Voting: Beilenson, Bonior, Hall, Wheat, and Goss.

VOTES IN THE COMMITTEE ON RULES TO MOTIONS ON THE RULE FOR H.R. 4600, "THE EXPEDITED RESCISSIONS ACT OF 1994" TUESDAY, JUNE 28, 1994

1. Hamilton or Dreier Amendment to Bill—Motion to make in order an amendment to be offered by Rep. Hamilton or Mr. Dreier, or their designees, that would be made in order at the end of the bill, consisting of three new titles which are the text of H.R. 3801, the "Legislative Reorganization Act of 1994." The amendment would be considered as base text for the purpose of further amendment under the five-minute rules, i.e., under an open amendment process. Rejected: 4–5. Yeas: Solomon, Quillen, Dreier and Goss. Nays: Moakley, Derrick, Beilenson, Bonior, and Gordon. Not Voting: Frost, Hall, Wheat and Slaughter.

2. Michel Amendment to Base Bill—Motion to make in order an amendment by Rep. Michel, or a designee, to the base bill, providing for presidential authority to repeal targeted tax provisions subject to the same approval process as H.R. 4600. The amendment would not subject to amendment but debatable for 30-minutes equally divided between the proponent and an opponent, and waiving all points of order. Rejected: 4–5. Yeas: Solomon, Quillen, Dreier and Goss. Nays: Moakley, Derrick, Beilenson, Bonior, and Gordon. Not Voting: Frost, Hall, Wheat and Slaughter.

OPEN VERSUS RESTRICTIVE RULES 95TH-103D CONG

Congress (years)	Total rules granted ¹	Open rules		Restrictive rules	
		Number	Percent ²	Number	Percent ³
95th (1977-78)	211	179	85	32	15
96th (1979-80)	214	161	75	53	25
97th (1981-82)	120	90	75	30	25
98th (1983-84)	155	105	68	50	32
99th (1985-86)	115	65	57	50	43
100th (1987-88)	123	66	54	57	46
101st (1989-90)	104	47	45	57	55
102d (1991-92)	109	37	34	72	66
103d (1993-94)	75	17	23	58	77

¹Total rules counted are all order of business resolutions reported from the Rules Committee which provide for the initial consideration of legislation, except rules on appropriations bills which only waive points of order. Original jurisdiction measures reported as privileged are also not counted.

²Open rules are those which permit any Member to offer any germane amendment to a measure so long as it is otherwise in compliance with the rules of the House. The parenthetical percentages are open rules as a percent of total rules granted.

³Restrictive rules are those which limit the number of amendments which can be offered, and include so-called modified open and modified closed rules, as well as completely closed rules, and rules providing for consideration in the House as opposed to the Committee of the Whole. The parenthetical percentages are restrictive rules as a percent of total rules granted.

ASources: "Rules Committee Calendars & Surveys of Activities," 95th-102d Cong.; "Notices of Action Taken," Committee on Rules, 103d Cong., through July 12, 1994.

OPEN VERSUS RESTRICTIVE RULES: 103D CONG.

Rule number date reported	Rule type	Bill number and subject	Amendments submitted	Amendments allowed	Disposition of rule and date
H. Res. 58, Feb. 2, 1993	MC	H.R. 1: Family and medical leave	30 (D-5; R-25)	3 (D-0; R-3)	PQ. 246-176. A: 259-164. (Feb. 3, 1993).
H. Res. 59, Feb. 3, 1993	MC	H.R. 2: National Voter Registration Act	19 (D-1; R-18)	1 (D-0; R-1)	PQ. 248-171. A: 249-170. (Feb. 4, 1993).
H. Res. 103, Feb. 23, 1993	C	H.R. 920: Unemployment compensation	7 (D-2; R-5)	0 (D-0; R-0)	PQ. 243-172. A: 237-178. (Feb. 24, 1993).
H. Res. 106, Mar. 2, 1993	MC	H.R. 20: Hatch Act amendments	9 (D-1; R-8)	3 (D-0; R-3)	PQ. 248-166. A: 249-163. (Mar. 3, 1993).
H. Res. 119, Mar. 9, 1993	MC	H.R. 4: NIH Revitalization Act of 1993	13 (D-4; R-9)	8 (D-3; R-5)	PQ. 247-170. A: 248-170. (Mar. 10, 1993).
H. Res. 132, Mar. 17, 1993	MC	H.R. 1335: Emergency supplemental Appropriations	37 (D-8; R-29)	1 (not submitted) (D-1; R-0)	A: 240-185. (Mar. 18, 1993).
H. Res. 133, Mar. 17, 1993	MC	H. Con. Res. 64: Budget resolution	14 (D-2; R-12)	4 (1-D not submitted) (D-2; R-2)	PQ. 250-172. A: 251-172. (Mar. 18, 1993).
H. Res. 138, Mar. 23, 1993	MC	H.R. 670: Family planning amendments	20 (D-8; R-12)	9 (D-4; R-5)	PQ. 252-164. A: 247-169. (Mar. 24, 1993).
H. Res. 147, Mar. 31, 1993	C	H.R. 1430: Increase Public debt limit	6 (D-1; R-5)	0 (D-0; R-0)	PQ. 244-168. A: 242-170. (Apr. 1, 1993).
H. Res. 149 Apr. 1, 1993	MC	H.R. 1578: Expedited Rescission Act of 1993	8 (D-1; R-7)	3 (D-1; R-2)	A: 212-208. (Apr. 28, 1993).
H. Res. 164, May 4, 1993	O	H.R. 820: National Competitiveness Act	NA	NA	A: Voice Vote. (May 5, 1993).
H. Res. 171, May 18, 1993	O	H.R. 873: Gallatin Range Act of 1993	NA	NA	A: Voice Vote. (May 20, 1993).
H. Res. 172, May 18, 1993	O	H.R. 1159: Passenger Vessel Safety Act	NA	NA	A: 308-0 (May 24, 1993).
H. Res. 173 May 18, 1993	MC	S.J. Res. 45: United States forces in Somalia	6 (D-1; R-5)	6 (D-1; R-5)	A: Voice Vote (May 20, 1993).
H. Res. 183, May 25, 1993	O	H.R. 2244: 2d supplemental appropriations	NA	NA	A: 251-174. (May 26, 1993).
H. Res. 186, May 27, 1993	MC	H.R. 2264: Omnibus budget reconciliation	51 (D-19; R-32)	8 (D-7; R-1)	PQ. 252-178. A: 236-194 (May 27, 1993).
H. Res. 192, June 9, 1993	MC	H.R. 2348: Legislative branch appropriations	50 (D-6; R-44)	6 (D-3; R-3)	PQ. 240-177. A: 226-185. (June 10, 1993).
H. Res. 193, June 10, 1993	O	H.R. 2200: NASA authorization	NA	NA	A: Voice Vote. (June 14, 1993).
H. Res. 195, June 14, 1993	MC	H.R. 5: Striker replacement	7 (D-4; R-3)	2 (D-1; R-1)	A: 244-176. (June 15, 1993).
H. Res. 197, June 15, 1993	MO	H.R. 2333: State Department, H.R. 2404: Foreign aid	53 (D-20; R-33)	27 (D-12; R-15)	A: 294-129. (June 16, 1993).
H. Res. 199, June 16, 1993	C	H.R. 1876: Ext. of "Fast Track"	NA	NA	A: Voice Vote. (June 22, 1993).
H. Res. 200, June 16, 1993	MC	H.R. 2295: Foreign operations appropriations	33 (D-11; R-22)	5 (D-1; R-4)	A: 263-160. (June 17, 1993).
H. Res. 201, June 17, 1993	O	H.R. 2403: Treasury-postal appropriations	NA	NA	A: Voice Vote. (June 17, 1993).
H. Res. 203, June 22, 1993	MO	H.R. 2445: Energy and Water appropriations	NA	NA	A: Voice Vote. (June 23, 1993).
H. Res. 206, June 23, 1993	O	H.R. 2150: Coast Guard authorization	NA	NA	A: 401-0. (July 30, 1993).

H. Res. 217, July 14, 1993	MO	H.R. 2010: National Service Trust Act	NA	NA	A: 261-164, (July 21, 1993).
H. Res. 220, July 21, 1993	MC	H.R. 2667: Disaster assistance supplemental	14 (D-8; R-6)	2 (D-2; R-0)	PQ. 245-178, F: 205-216, (July 22, 1993).
H. Res. 226, July 23, 1993	MC	H.R. 2667: Disaster assistance supplemental	15 (D-8; R-7)	2 (D-2; R-0)	A: 224-205, (July 27, 1993).
H. Res. 229, July 28, 1993	MO	H.R. 2330: Intelligence Authority Act, fiscal year 1994	NA	NA	A: Voice Vote. (Aug. 3, 1993).
H. Res. 230, July 28, 1993	O	H.R. 1964: Maritime Administration authority	NA	NA	A: Voice Vote. (July 29, 1993).
H. Res. 246, Aug. 6, 1993	MO	H.R. 2401: National defense authority	149 (D-109; R-40)		A: 246-172, (Sept. 8, 1993).
H. Res. 248, Sept. 9, 1993	MO	H.R. 2401: National defense authorization			PQ. 237-169, A: 234-169, (Sept. 13, 1993).
H. Res. 250, Sept. 13, 1993	MC	H.R. 1340: RTC Completion Act	12 (D-3; R-9)	1 (D-1; R-0)	A: 213-191-1, (Sept. 14, 1993).
H. Res. 254, Sept. 22, 1993	MO	H.R. 2401: National Defense authorization		91 (D-67; R-24)	A: 241-182, (Sept. 28, 1993).
H. Res. 262, Sept. 28, 1993	O	H.R. 1845: National Biological Survey Act	NA	NA	A: 238-188, (10/06/93).
H. Res. 264, Sept. 28, 1993	MC	H.R. 2351: Arts, humanities, museums	7 (D-0; R-7)	3 (D-0; R-3)	PQ. 240-185, A: 225-195, (Oct. 14, 1993).
H. Res. 265, Sept. 29, 1993	MC	H.R. 3167: Unemployment compensation amendments	3 (D-1; R-2)	2 (D-1; R-1)	A: 239-150, (Oct. 15, 1993).
H. Res. 269, Oct. 6, 1993	MO	H.R. 2739: Aviation infrastructure investment	N/A	N/A	A: Voice Vote. (Oct. 7, 1993).
H. Res. 273, Oct. 12, 1993	MC	H.R. 3167: Unemployment compensation amendments	3 (D-1; R-2)	2 (D-1; R-1)	PQ. 235-187, F: 149-254, (Oct. 14, 1993).
H. Res. 274, Oct. 12, 1993	MC	H.R. 1804: Goals 2000 Educate America Act	15 (D-7; R-7; I-1)	10 (D-7; R-3)	A: Voice Vote. (Oct. 13, 1993).
H. Res. 282, Oct. 20, 1993	C	H.J. Res. 281: Continuing appropriations through Oct. 28, 1993.	N/A	N/A	A: Voice Vote. (Oct. 21, 1993).
H. Res. 286, Oct. 27, 1993	O	H.R. 334: Lumber Recognition Act	N/A	N/A	A: Voice Vote. (Oct. 28, 1993).
H. Res. 287, Oct. 27, 1993	C	H.J. Res. 283: Continuing appropriations resolution	1 (D-0; R-0)	0	A: 252-170, (Oct. 28, 1993).
H. Res. 289, Oct. 28, 1993	MC	H.R. 2151: Maritime Security Act of 1993	N/A	N/A	A: Voice Vote. (Nov. 3, 1993).
H. Res. 293, Nov. 4, 1993	O	H. Con. Res. 170: Troop withdrawal Somalia	N/A	N/A	A: 390-8, (Nov. 8, 1993).
H. Res. 299, Nov. 8, 1993	MO	H.R. 1036: Employee Retirement Act-1993	2 (D-1; R-1)	N/A	A: Voice Vote. (Nov. 9, 1993).
H. Res. 302, Nov. 9, 1993	MC	H.R. 1025: Brady handgun bill	17 (D-6; R-11)	4 (D-1; R-3)	A: 238-182, (Nov. 10, 1993).
H. Res. 303, Nov. 9, 1993	O	H.R. 322: Mineral exploration	N/A	N/A	A: Voice Vote. (Nov. 16, 1993).
H. Res. 304, Nov. 9, 1993	C	H.J. Res. 288: Further CR, FY 1994	N/A	N/A	F: 191-227, (Feb. 2, 1994).
H. Res. 312, Nov. 17, 1993	MC	H.R. 3425: EPA Cabinet Status	27 (D-8; R-19)	9 (D-1; R-8)	A: 233-192, (Nov. 18, 1993).
H. Res. 313, Nov. 17, 1993	MC	H.R. 796: Freedom Access to Clinics	15 (D-9; R-6)	4 (D-1; R-3)	A: 238-179, (Nov. 19, 1993).
H. Res. 314, Nov. 17, 1993	MC	H.R. 3351: Alt Methods Young Offenders	21 (D-7; R-14)	6 (D-3; R-3)	A: 252-172, (Nov. 20, 1993).
H. Res. 316, Nov. 19, 1993	C	H.R. 51: D.C. statehood bill	1 (D-1; R-0)	N/A	A: 220-207, (Nov. 21, 1993).
H. Res. 319, Nov. 20, 1993	MC	H.R. 3: Campaign Finance Reform	35 (D-6; R-29)	1 (D-0; R-1)	A: 247-183, (Nov. 22, 1993).
H. Res. 320, Nov. 20, 1993	MC	H.R. 3400: Reinventing Government	34 (D-15; R-19)	3 (D-3; R-0)	PQ. 244-168, A: 342-65, (Feb. 3, 1994).
H. Res. 336, Feb. 2, 1994	MC	H.R. 3759: Emergency Supplemental Appropriations	14 (D-8; R-5; I-1)	5 (D-3; R-2)	PQ. 249-174, A: 242-174, (Feb. 9, 1994).
H. Res. 352, Feb. 8, 1994	MC	H.R. 811: Independent Counsel Act	27 (D-8; R-19)	10 (D-4; R-6)	A: Voice Vote. (Feb. 10, 1994).
H. Res. 357, Feb. 9, 1994	MC	H.R. 3345: Federal Workforce Restructuring	3 (D-2; R-1)	2 (D-2; R-0)	

OPEN VERSUS RESTRICTIVE RULES: 103D CONG.—Continued

Rule number date reported	Rule type	Bill number and subject	Amendments submitted	Amendments allowed	Disposition of rule and date
H. Res. 366, Feb. 23, 1994	MO	H.R. 6: Improving America's Schools	N/A	N/A	A: Voice Vote (Feb. 24, 1994).
H. Res. 384, Mar. 9, 1994	MC	H. Con. Res. 218: Budget Resolution FY 1995-99	14 (D-5; R-9)	5 (D-3; R-2)	A: 245-171 (Mar. 10, 1994).
H. Res. 401, Apr. 12, 1994	MO	H.R. 4092: Violent Crime Control	180 (D-98; R-82)	68 (D-47; R-21)	A: 244-176 (Apr. 13, 1994).
H. Res. 410, Apr. 21, 1994	MO	H.R. 3221: Iraqi Claims Act	N/A	N/A	A: Voice Vote (Apr. 28, 1994).
H. Res. 414, Apr. 28, 1994	O	H.R. 3254: NSF Auth. Act	N/A	N/A	A: Voice Vote (May 3, 1994).
H. Res. 416, May 4, 1994	C	H.R. 4296: Assault Weapons Ban Act	7 (D-5; R-2)	0 (D-0; R-0)	A: 220-209 (May 5, 1994).
H. Res. 420, May 5, 1994	O	H.R. 2442: EDA Reauthorization	N/A	N/A	A: Voice Vote (May 10, 1994).
H. Res. 422, May 11, 1994	MO	H.R. 518: California Desert Protection	N/A	N/A	PQ: 245-172 A: 248-165 (May 17, 1994).
H. Res. 423, May 11, 1994	O	H.R. 2473: Montana Wilderness Act	N/A	N/A	A: Voice Vote (May 12, 1994).
H. Res. 428, May 17, 1994	MO	H.R. 2108: Black Lung Benefits Act	4 (D-1; R-3)	N/A	A: Voice Vote (May 19, 1994).
H. Res. 429, May 17, 1994	MO	H.R. 4301: Defense Auth., FY 1995	173 (D-115; R-58)	N/A	A: 369-49 (May 18, 1994).
H. Res. 431, May 20, 1994	MO	H.R. 4301: Defense Auth., FY 1995	N/A	100 (D-80; R-20)	A: Voice Vote (May 23, 1994).
H. Res. 440, May 24, 1994	MC	H.R. 4385: Natl Hiway System Designation	16 (D-10; R-6)	5 (D-5; R-0)	A: Voice Vote (May 25, 1994).
H. Res. 443, May 25, 1994	MC	H.R. 4426: For. Ops. Appropriations, FY 1995	39 (D-11; R-28)	8 (D-3; R-5)	PQ: 233-191 A: 244-181 (May 25, 1994).
H. Res. 444, May 25, 1994	MC	H.R. 4454: Leg Branch Appropriations, FY 1995	43 (D-10; R-33)	12 (D-8; R-4)	A: 249-177 (May 26, 1994).
H. Res. 447, June 8, 1994	O	H.R. 4539: Treasury/Postal Appropriations, FY 1995	N/A	N/A	A: 236-177 (June 9, 1994).
H. Res. 467, June 28, 1994	MC	H.R. 4600: Expedited Rescissions Act	N/A	N/A	
H. Res. 468, June 28, 1994	MO	H.R. 4299: Intelligence Auth., FY 1995	N/A	N/A	
H. Res. 474, July 12, 1994	MO	H.R. 3937: Export Admin. Act of 1994	N/A	N/A	
H. Res. 475, July 12, 1994	O	H.R. 1188: Anti-Redlining in Ins	N/A	N/A	

Note.—Code: C-Closed; MC-Modified closed; MO-Modified open; O-Open; D-Democrat; R-Republican; PQ: Previous question; A-Adopted; F-Failed.

Mr. DERRICK. Mr. Speaker, for the purpose of debate only, I yield 1 minute to the gentlewoman from Indiana [Ms. LONG].

Ms. LONG. Mr. Speaker, I rise in support of the rule and in strong support of the Stenholm-Penny-Kasich substitute to the bill.

Last year, the House approved enhanced rescission authority for the President. Unfortunately, that legislation never went further. The Stenholm-Penny-Kasich substitute, made in order under this rule, is a bipartisan compromise that streamlines the process, allows the President to designate rescission savings for deficit reduction, and makes the President and the Congress more accountable regarding questionable spending items and tax provisions.

This Congress has shown itself to be committed to reducing the deficit. Tough choices were made to bring the Federal deficit down to the \$220 billion projected for this fiscal year. It is not enough, however. If we are serious about reducing spending and eventually balancing the budget the Stenholm, Penny, Kasich approach is the strongest and most reasonable vehicle for cutting waste out of our annual appropriations process.

I urge my colleagues to support the substitute when it comes up for a vote.

Mr. SOLOMON. Mr. Speaker, I yield such time as he may consume to the gentleman from Claremont, CA [Mr. DREIER] a member of our Committee on rules, but also the vice chairman of the congressional reform committee that you and I had the privilege of serving on with him.

Mr. DREIER. Mr. Speaker, I thank my friend, the ranking member of the Committee on rules, the gentleman from Glens Falls, NY, for yielding me this time.

I would like to say what a great addition he was to the Joint Committee on the Organization of Congress.

Mr. Speaker, with this rule, the House leadership is attempting to bring to the floor a regurgitated, enhanced rescission bill that already passed the House last year and has virtually no chance of being considered by the other body.

If our colleagues are serious about enacting an enhanced rescission package, one that can be passed by both Chambers and signed by the President, it must be done as part of a broader reform package. This is why I am going to urge, as my friend, the gentleman from Glens Falls, NY, has said, our colleagues to vote "no" on the previous question. If the previous question is defeated, I intend to offer an amendment to the rule that would provide for the consideration of a further amendment at the end of H.R. 4600 relating to the issue of congressional reform.

With a very few legislative days remaining in this session of the 103d Congress, defeating the previous question provides one of the best opportunities to bring about real congressional reforms this year to the budget process as well as reforms to an antiquated committee system, legislative procedures, administration of the House, and legislative branch personnel.

In contrast, separating budget reform from the broader congressional reform package is a tactic designed to kill an enhanced rescission bill, and it substantially diminishes the prospect for any meaningful congressional reform this year.

Mr. Speaker, there is no reason to delay the issue of congressional reform. The Joint Committee on the Organization of Congress held 36 hearings and 4 days of markup last year. The Committee on Rules has completed its hearings, and the Committee on House Administration has also held several hearings.

As my good friend and counterpart, the gentleman from Indiana [Mr. HAMILTON], said in a June 30 letter to the chairman of the Committee on Rules, the gentleman from Massachusetts [Mr. MOAKLEY], "This is a meaningful package that will allow Members to claim credibly they have taken serious steps to enhance the effectiveness and institutional integrity of Congress."

We cannot make that same claim, Mr. Speaker, about H.R. 4600, the enhanced rescission bill.

I urge my colleagues to move the process of congressional reform along. Join the gentleman from Indiana [Mr. HAMILTON] and me by attempting to defeat the previous question so that we can keep the process of reform, which the American people and I believe a majority of this Congress wants to have, going.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 3 minutes to the gentleman from Texas [Mr. STENHOLM].

Mr. STENHOLM. Mr. Speaker, I rise in strong support of House Resolution 467, the rule before us today which allows for the consideration of H.R. 4600, the Expedited Rescissions Act.

Let me extend high praise to the Rules Committee and our leadership for the rule that has been reported on this bill. Although I am a Member who occasionally must rise in opposition to rules which I feel do not allow a proper airing of major issues relevant to a bill, I also want to be quick to express my appreciation for rules which meet a fairness test. This rule does.

Let me also commend JOHN SPRATT and BUTLER DERRICK for introducing H.R. 4600 so that we can once again focus attention on this issue. I supported this legislation when it was passed by the House last year, and continue to believe that it will make a significant step forward in the accountability of the budget process.

That notwithstanding, I believe there are several areas in which this legislation can be improved. It was in this spirit that TIM PENNY, JOHN KASICH, and I developed the expedited rescissions title to H.R. 4434, the Common Cents Budget Reform Act. Our amendment is similar to H.R. 4600, but includes several differences which will substantially strengthen the legislation. I will elaborate on those differences later in this debate, but at this point I would like to focus specifically on the rule.

There are a number of Members who believe that we should grant the President line item veto authority, that is to say, the ability to eliminate spending items with the support of one-third plus one of either the House or the Senate. That opinion will be ably represented today by my colleagues on the other side of the aisle, Minority Leader MICHEL and Representative SOLOMON.

While I disagree with that approach, I believe it is perfectly reasonable for any Member to think otherwise and I feel this body should express its will on the proper approach to take on this issue. That is also why I went to the Rules Committee asking that the Michel-Solomon amendment be made in order.

Furthermore, that is why I did not object to the structure of this current rule, even though the structure means that if Michel-Solomon passes, the language of my amendment will not even be voted on. Members should not come to the floor expecting to be able to vote for every amendment offered in order that the last one might prevail. This is not a king-of-the-hill rule. It is not a closed rule. It is more like a single elimination rule which, if biased in any way, is biased toward the initial amendment, the Michel-Solomon amendment. I did not object to this bias; in fact I argued for it with Rules Committee members. And I say right now to my colleague, the gentleman from New York, "if your amendment passes, I will support it on final passage," because it definitely strengthens the will of the House regarding this particular issue.

Again, I commend the Rules Committee for bringing to us today this rule. I urge my colleagues to support this rule and, later in the day, I hope they will support the Stenholm-Penny-Kasich amendment as being the most serious approach which can muster majority support.

Mr. SOLOMON. Mr. Speaker, I yield 2 minutes to the gentleman from Bellevue, WA [Ms. DUNN], another valuable Member of this House, a freshman Member, and a member of the congressional reform task force that you and I served on, and who has been so valuable in trying to bring about reforms in this House.

Ms. DUNN. Mr. Speaker, I rise to urge my colleagues to do the right thing: Defeat the previous question so that we can bring real congressional reform to the House floor without any more of the dilatory tactics that have been deployed thus far.

This rule represents a clear effort to approach reform in a piecemeal manner, rather than consider a comprehensive package. As most Members are aware, the esteemed House chairman of the Joint Committee on the Organization of Congress, Mr. HAMILTON of Indiana, has called for rejection of the piecemeal approach so that the House may consider a comprehensive package of reforms.

And make no mistake, this rule today is the first step toward piecemeal and minimalist reforms. The Expedited Recission Act to which this rule applies was only one of the hundreds of reforms considered by the Joint Committee. So, regardless of any rationalizations, Mr. Speaker, it is clear that this effort today splinters the reform effort.

Is watered down reform what the taxpayers desire? No. In 1992, exasperated taxpayers sent a clear signal for institutional reform. The Congress responded with formation of the Joint Committee on the Organization of Congress. Then voters sent a huge new class of freshmen to Congress to institute wide-ranging reforms. The Joint Committee, on which I was privileged to be the only freshman, built a hearing record of unprecedented proportions.

Now, the fix is in. Slow down, water down, limit the reforms.

Mr. Speaker, taxpayers want bold reform. This vote today is our chance to give it to them.

Let us defeat the previous question; let us consider a reform package under an open rule; let us do the right thing.

Mr. SOLOMON. Mr. Speaker, I yield 2 minutes to the gentleman from Colorado [Mr. ALLARD], another valuable Member of this

House who has served on the joint committee to reform the House with you and me.

Mr. ALLARD. I thank the gentleman from New York for yielding this time to me.

Mr. Speaker, I rise to urge my colleagues to vote "no" on the previous question because we need to have real reform come before the House. This rescission bill passed the House last year, then the Senate defeated a similar rescission bill. I believe its fate will be the same again.

The Senate insists on true reform, why should we settle for anything less in this body?

If the Members of this House are ready to discuss serious reform, they need to reject weak efforts such as this and focus on substantial issues. I believe that the best place for us to begin our journey toward actual reform is exactly where the Senate has, with the recommendations of the Joint Committee on the Reorganization of Congress, as specified in H.R. 3801.

Not only does this include budgetary reform but also committee structure, congressional compliance, proxy voting, and administrative reforms. Why should the House waste time on minor, shallow changes when there is a comprehensive reform package ready now?

We know Members from both parties are in favor of it; our colleagues in the other Chamber want it, and our constituents demand it. It is time for the rhetoric to stop and for the Congress to act.

Again I urge vote "no" on the previous question so that we can have a chance to consider real congressional reform and, hopefully, with an open rule.

Mr. DERRICK. Mr. Speaker, I have just one Member left to speak at this time.

Mr. Speaker, I reserve the right to close.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume.

I will just recall to the membership what happened in January 1993 when this 103d Congress convened. At that time over 100 new Members, who now have reached, I think, 112 or 113—

Mr. DREIER. If the gentleman would yield, it is 117.

Mr. SOLOMON. There are 117 new Members to this House. Almost every one of these Members on both sides of the aisle, both Democrats and Republicans, came here having been elected on a platform to try to fix what is wrong with this House. Gridlock and other problems have reduced the House to the lowest level of respect, according to the polls, at any time in the history of the United States.

Mr. DREIER. Mr. Speaker, will the gentleman yield?

Mr. SOLOMON. I yield to the vice chairman of the joint committee which was formed after a meeting in the office of the Speaker. Both the Republican and the Democratic leadership set up a committee that would bring about true reform in this House.

I yield to the vice chairman of that committee, the gentleman from California [Mr. DREIER].

Mr. DREIER. I thank the gentleman for yielding.

I would like to follow on in a statement the gentleman made in his opening remarks; that here we are dealing with an issue that

this House has already voted on, the issue of the rescission. Once again we are facing that issue and it is a priority item, very important for us to proceed with. Yet we are too busy to deal with the issue of congressional reform. That is what we continue to hear from this leadership. My friend said that in his opening remarks. It seems to me to be a real tragedy that as we go through a question we have already resolved, that now we are doing this. My friend is absolutely right; the Joint Committee on the Reorganization of Congress was established in the wake of the post office and the House bank and restaurant problems that we have had here, and it was virtually unanimous—that is, the establishment of this committee—and during calendar year 1993 this committee put together the largest compilation of information on this institution, both the House and the Senate, that has ever been gleaned. And what a tragedy that as we look at all the work that was done we are talking about breaking it into bits without really moving forward with congressional reform as was promised last year. Unfortunately, we were in a position where they have said that, “Yes, we want to do it,” but they only want to look at the issue of congressional compliance.

This issue of budget reform is a very important aspect of congressional reform, entitlement review; all of these items are encompassed in H.R. 3801, legislation which has been reported out.

We have had hearing after hearing in our subcommittee on rules of the House, and we have had hearings in the Administration Committee. It is a real tragedy that the American people and, I believe, a majority of the membership of this institution who want to see congressional reform proceed, are being blocked by these attempts by the leadership to do that.

You know, when you look at the work that my friend, Mr. SPRATT, and Mr. SWIFT and Mr. SOLOMON and so many of the rest of us put into it in calendar year 1993, 243 witnesses came before our committee, 37 hearings. It was the first bicameral, bipartisan effort in nearly half a century. Not since the Monroney-LaFollette reform came forward in 1947 have we seen the kind of effort that we have seen with this Joint Committee on the Reorganization of Congress. It is a travesty that it is being treated in the way that it has. That is the reason that I am insisting on defeat of the previous question so that we can make in order H.R. 3801. I am not a strong proponent of H.R. 3801; I think there are many modifications that should be made in it. I suspect that several of my friends on both sides of the aisle would support some modification of H.R. 3801. But let us give this House a chance to hear this legislation and this is our chance to do it. That is why we have got to vote “no” on the previous question.

I thank my friend for yielding.

Mr. SOLOMON. If the gentleman will stay in the well for just a minute, I will say he is absolutely right. Our joint committee did meet; we marked up that reform bill. It was not to your satisfaction or to mine, but at least it was a start.

Now we are being informed that not only will we not have a chance to vote on that bill, but it is going to be broken up into pieces and brought to this floor under closed rules so that Members

from each individual district will not have a chance to work their will.

Many things really need to be done, such as reducing the number of committees and subcommittees that would automatically reduce by one-third the staff it takes now to man all of those committees. Abolish joint referrals. We have now in the House of Representatives 3 different committees dealing with the health care issue and no less than 10 subcommittees involved with it.

That is why we cannot have a decent health care reform around here. We need to reform joint referrals. We need to ban proxy voting. We need to limit the terms of chairmen and even have term limitations for Members who serve on some committees perhaps. We need to apply the same laws to Congress that we foist on the American people.

Mr. DREIER. Mr. Speaker, will the gentleman continue to yield?

Mr. SOLOMON. I yield to the gentleman from California.

Mr. DREIER. I thank the gentleman for yielding further.

Let me just say to my friend that he has reminded me of the fact that I and my colleague from Cape Girardeau, MO [Mr. EMERSON], were the only two who voted to move this process forward. The gentleman from New York [Mr. SOLOMON] very wisely voted against it, and the other Republicans on the committee voted against it, not believing that we would see real congressional reform.

Yet, I being the eternal optimist, always looking for that silver lining in the dark cloud, and the pony when they provide me with a pile of manure, believed that we would be able to bring forward this reform package. Tragically, as we sit here, the issue of reform has been swept aside. I should underscore the fact that the gentleman from Indiana, LEE HAMILTON, joins me in his grave concern over the direction we have taken. There are no fewer than two letters that he has sent to the chairman of our Committee on Rules, the gentleman from Massachusetts [Mr. MOAKLEY], where he stated how strongly he feels about the need to keep this reform package together so that all those items that my friend from Glens Falls has mentioned, those items such as committee structure reform, proxy voting, congressional compliance, budget reform, can be held together as they were intended to be held together as it was reported out of the joint committee.

Mr. SOLOMON. I certainly hope the gentleman is going to be successful in defeating the previous question. Every responsible Member ought to vote against the previous question so that the gentleman will have that opportunity to bring that open rule to the floor.

Mr. Speaker, let me at this time yield 3 minutes to the gentleman from Sanibel, FL [Mr. GOSS] another member of the Committee on Rules who has just returned to the floor.

Mr. GOSS. I thank the gentleman for yielding this time to me.

Mr. Speaker, everyone knows our budget process is broken. Yet our budget reform effort is like a scratched old 33 LP record skipping on the same line over and over again. Today we are discussing a bill that is virtually identical to one we passed earlier this Congress. H.R. 4600 would make the same slight improvements to the procedure for considering Presidential rescissions that we made by

passing H.R. 1578 last year. That bill was dead on arrival in the other body, and there is no sign that this newly dressed up repeat version will do any better. Americans should know that debate and passage of this bill—which in itself will do nothing—is part of a majority leadership buy-off to prevent the A-to-Z spending cut proposal from coming to the floor. We are now providing cover for Democrats who want to say to their constituents in this election year that they took action to solve the budget crisis, but don't actually want to make real cuts. Put another way: We are trading words for action. The rule itself has good and bad points. On the plus side, we will have a chance to vote on two strengthening amendments—without the usual king-of-the-hill routine. The Solomon-Michel amendment is a true line-item veto. It would give the President permanent authority to propose rescissions to spending and tax benefits, and would require a two-thirds majority to override those cuts. The Kasich/Penny/Stenholm proposal, while not a panacea on its own, would expand the President's powers to target spending and tax-benefits. It would also permanently extend expedited rescission authority. Unfortunately, once again the Rules Committee has denied Mr. MICHEL an opportunity to offer a free-standing amendment to allow the President to target new tax-breaks. And it is somewhat ironic that in the so-called Year of Reform, the Rules Committee majority has refused to make in order an amendment encompassing the recommendations of the Joint Committee on the Organization of Congress. I fully support the efforts of my friend, Mr. DREIER, in seeking to defeat the previous question on this rule so we may bring this bill back with some real reform attached.

Mr. Speaker, reform is not about issuing press releases and staging floor votes for the C-Span cameras. Reform is about changing the way we operate so we can regain the trust of the American people which now hovers somewhere in the teen digit area when it comes to the U.S. Congress. We can do better.

We are not talking here today about enhanced rescissions; we are not talking about line item veto. We are talking about expedited rescission, expedited. What, in fact, that means is we are going to move a little faster so we still cannot make the right decision. Instead of taking 3 days not to be able to make the decision, we are now going to take 5 or 10 days.

Mr. Speaker, that is not the kind of improvement the American people are looking for.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from Ohio [Mr. FINGERHUT].

Mr. FINGERHUT. Mr. Speaker, I thank the gentleman from South Carolina [Mr. DERRICK] for yielding this time to me, and I rise in support of the rule and the bill.

I, first of all, would note that the rule does provide opportunities, as the gentleman from Florida [Mr. GOSS] just said, to vote for strengthening amendments, as Members would choose, including, as he has characterized, a vote on the true line-item veto, and I intend to vote for those strengthening amendments. That opportunity is provided to us by the Committee on Rules in this rule, and I thank them for it, and we do have the opportunity today to vote as we choose on the strongest possible version of this bill.

The troubling aspect of this debate today is, as the other gentlemen have pointed out, that we are doing again today something very similar to what we have done before, a year ago, a bill which we approved in this House, not as strong as I would have liked or as I voted for a year ago, but that we sent to the Senate, and they did nothing.

So what then is the purpose of us being here today?

Well, I think the purpose of us being here today is to underscore, to reemphasize, that the House of Representatives, a majority of its Members, understands the importance of changing the rules with respect to spending, of giving the opportunity within the budget process to focus in greater detail on the line items and that we are going to send another version over to the Senate. We are going to ask them again to ask on this issue.

The fact of the matter is, on the merits of changing the rules with respect to spending, the government has changed since our Founding Fathers first framed the division of powers. I believe truly that, if they had seen the complexity of the budget process, if they understood the detail with which these line items must be gone over, that they would have no objection to finding a process by which the Executive and the legislature could work closer together to get at individual line items.

The fact is that we need a process to review individual items of spending in the glare of the spotlight, in that light of day, and for the President to say again to the Congress, "Look at that one again. I want you to stand up, and I want you to decide whether or not, indeed, you want this measure to be an appropriate use of the taxpayers' dollars."

I think we should support this rule and this bill.

Mr. DREIER. Mr. Speaker, will the gentleman yield?

Mr. FINGERHUT. I yield to the gentleman from California.

Mr. DREIER. Mr. Speaker, I thank the gentleman from Ohio for yielding, and I would simply like to say that my friend has, in fact on several occasions, testified before the Joint Committee on the Organization of Congress, and I know he has been part of an effort on the other side of the aisle to pursue this issue of reform.

Now, he wisely says that it is important for us to underscore for the other body how important it is to address, rather than ignore, this issue of enhanced rescission. We have seen by their pattern that they have chosen to ignore this legislation that a year ago was reported out of here. But they are interested in the process of reform, and it seems to me that the only way for us to adequately move forward with this enhanced rescission bill that could get a response from the other body would be for us to do it under the rubric of H.R. 3801, a reform package.

Mr. FINGERHUT. Reclaiming my time, Mr. Speaker, the gentleman from California [Mr. DREIER] knows I am supportive of many aspects of congressional reform, but today what we need to do is focus in on the line item veto. Let us send that message to the other body. Let us get them to at least act on this.

Mr. DREIER. We might be able to do that——

The SPEAKER pro tempore (Mr. SWIFT). The time of the gentleman from Ohio [Mr. FINGERHUT] has expired.

Mr. DERRICK. Mr. Speaker, I have one speaker remaining, and I reserve the right to close.

Mr. SOLOMON. Then, Mr. Speaker, I yield 2 minutes to the gentleman from Wyoming [Mr. THOMAS].

Mr. THOMAS of Wyoming. Mr. Speaker, it is déjà vu all over again. We are debating a measure today that has already been discussed at great length last year, and we are doing it for a very familiar reason.

We are debating this bill so the Democratic leadership can once again prevent any real reform of the process they have controlled for 50 years.

We heard a lot about change in the 1992 elections, but we have seen precious little of it around this place. Time and again when reform proposals have been presented—proposals overwhelmingly supported by the American people—the Democratic leadership has found a way to shoot them down.

It is my opinion that we need to make some fundamental changes in the way we do business. You cannot keep doing the same things and expect different results.

We need to find ways to make real cuts in Federal spending. We need to pass term limits. We need to pass a balanced budget amendment. And we need to give the President line-item veto authority.

It is that line-item veto power we ought to be voting on today, Mr. Speaker, but thanks to the Democrat leadership, we will be voting on a fake.

The line-item veto is an integral part of any true reform effort and vital if we are ever going to end the kind of pork barrel spending that has so long dominated things around here.

Forty-three Governors have the line-item veto power. Opponents say it won't work, it will not cut much; but it does work and it does bring responsibility to the legislative process. It works fine in Wyoming, and it would put some needed integrity into the process in Washington.

Mr. Speaker, we shouldn't be fooled by what is going on here today. The Democratic leadership will do anything they can to avoid having to make real spending cuts and to avoid making any real changes to the way they've run Congress for so long.

Just as the A-to-Z spending cut proposal is picking up steam, the leadership decides to have this exercise today so Members who don't sign the discharge petition can run home and claim they've voted for a line-item veto instead. The two shouldn't be tied together—they are separate issues—and the American people won't be fooled.

I am disappointed we are taking this route, Mr. Speaker. We saw the same tactics used to pass the President's tax increase. We were told we would have a chance to vote for more spending cuts, then the leadership defeated Penny-Kasich.

We saw the same tactics used when we debated the balanced budget amendment. The leadership offered a phony amendment which gave political cover to those who had promised to support a balanced budget amendment then refused to do so.

And today we will have a leadership proposal used to defeat true line-item veto. I encourage my colleagues to vote for real line-item

veto. Vote for the Solomon/Michel substitute. If that should fail, vote for Stenholm. But no one who truly supports line-item veto should vote for H.R. 4600.

Mr. SOLOMON. Mr. Speaker, I yield 3 minutes to the gentleman from Cape Girardeau, MO [Mr. EMERSON], another member of the Joint Committee on Reform of the Congress, a gentleman who has been here for many years as a page, now as a Congressman.

Mr. EMERSON. Mr. Speaker, I rise to join my joint committee colleagues in urging the House to defeat the previous question and make in order the joint committee's bill.

It is ironic that the majority leadership in this Congress appears to be in favor of about just every kind of reform for the American people except for reform for the Congress itself. They want to radically reform health care, tell everybody else how to operate, insurance companies, doctors, patients, how to choose their care. They want to fundamentally restructure education, dictating to the States how they are going to spend their dollars, how to structure their curriculum and how to teach their students.

Of course, they want to overhaul wetlands policy, instructing private property owners what they can and cannot do with their land, designating acres and acres of land as off limits and forcing businesses to cease their business activities.

It seems that the majority wants to reform every aspect of everybody else's lives and livelihood. The only thing we refuse to reform here is the Congress itself.

The joint committee was created to develop comprehensive congressional reform, and it did that. The committee went out of existence at the end of last year. Its report, 6 Democrats and 2 Republicans of the 12-person House contingent of that committee voted to report a measure to the House, which has been languishing since last November.

Now the leadership plans to split up that legislative package, which would effectively kill any reform that would actually impact the Congress.

If reform is good for the rest of the country, it should be equally as good for Congress. I urge all of our colleagues to send a message that congressional reform is essential, and that the House can do unto itself what it does to other.

At the point we voted earlier to abolish select committees in this House, there was a grand coalition of what we referred to as, and everybody knows what I am talking about, the old bulls and the freshmen Members, the young reformers of both parties. This was all done in the name of congressional reform.

We had too many committees, so we abolished the select committees. All right, well and good.

Why do we not move on with the rest of the forum? We do need to reform ourselves in so many areas. A blueprint is there, imperfect though it may be. But let us vote to defeat the previous question here, so at least the issue can come up, and we can debate it, discuss it, and vote upon it.

Mr. SOLOMON. Mr. Speaker, I yield the balance of our time to the very illustrious gentleman from Claremont, CA [Mr. DREIER].

Mr. DREIER. Mr. Speaker, my friend from Cape Girardeau, and a very hard working member of our Joint Committee on the Orga-

nization of Congress, said it very accurately when he raised the issue of health care reform, wetlands reform, education reform. I should say that he forgot to mention welfare reform. I mean, virtually every area of our economy has attempted to be reformed by this Congress, and yet we are sweeping the issue of congressional reform aside.

After all, if you look at the 1992 election, there are now 117 new Members of this House, most of whom ran on the issue of reform of the Congress, because it was desperately needed. And here we are, charging, just weeks away from the 1994 election, and what is happening? Well, not a lot of people out there are talking about congressional reform anymore, because they are busy talking about health care reform and Haiti and North Korea and welfare reform and a large number of other items.

But, quite frankly, congressional reform was the mandate that sent many of these new members here. And I believe that the American people and a majority of the Members of this Congress want us to deal with reform of this institution. It has not been done in nearly half a century, and it seems to me that this is our opportunity to do it.

We have a chance. On this enhanced rescission bill, what I plan to do, if we can defeat the previous question, is insert at the end H.R. 3801, which is the bill that was reported out of the Joint Committee on the Organization of Congress just before Thanksgiving of last year. It gives us a chance to face the issue of congressional reform the way we should be doing it, straightforward. Not breaking it up into bits, which is nothing but a divided and conquer strategy.

Now, I know there are many people here who thrive on the status quo. But, quite frankly, we need to become more accountable, more deliberative. And I believe that the full House has the right and the responsibility to look at our reform package.

I urge a "no" vote on the previous question, so that we can make in order the issue of congressional reform.

Mr. DERRICK. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me say I commend the gentleman who has just spoken, and the gentleman from Indiana [Mr. HAMILTON], for their work. But I would have to say that even if the motion for the previous question were to fail, it is my opinion that the gentleman could not do what he proposes to do, that is, offer an amendment to the rule to enable him to offer H.R. 3801 as an amendment to this bill.

Be that as it may, I find it rather disappointing that we once again take something serious like this reform measure, which is very good, and there are many parts of it that I agree with, and trivialize it. Moreover, to stand here and once again lambast this House of Representatives is disappointing. No one said it was perfect. Our Founding Fathers did not say they were giving us a perfect—

Mr. DREIER. Mr. Chairman, will the gentleman yield?

Mr. DERRICK. I will not.

Mr. Speaker, I did not yield to the gentleman.

The SPEAKER pro tempore (Mr. SWIFT). The gentleman from South Carolina has the time.

Mr. DERRICK. Mr. Speaker, I ask for regular order.

The SPEAKER pro tempore. The gentleman from South Carolina has the time and is recognized.

Mr. DERRICK. I go back to what I said, that the gentleman who spoke before lambasted this body.

I think Members of both parties are guilty of it. I think the other party may be a little more guilty, but not enough to argue about, of taking every opportunity they get to denigrate the institutions of this government, especially the House of Representatives.

Mr. DREIER. Mr. Speaker, will the gentleman yield?

Mr. DERRICK. No; I will not.

The SPEAKER pro tempore. The gentleman from South Carolina has the time.

Mr. DERRICK. Mr. Speaker, what worries me is that if Members continue to denigrate our institutions, they could weaken them to the point where someone could come along who might not have the same great appreciation for democracy that our Founding Fathers had, and we could one day lose this great form of government of ours.

Ours is not a perfect form of government. Our Founding Fathers never said it was. But it works. This House works. This Congress works. It is the most representative body in the world. It serves our Nation and our people well. And I believe many who stand up and denigrate it believe continuously should have more respect for it than they have.

Mr. Speaker, as I pointed out earlier, the Federal budget deficit is down, way down. For the first time since the Truman administration, the United States will experience, thanks entirely to the President and the Democrats in the Congress, 3 years of declining Federal budget deficits.

But we cannot rest. We must continue battling the deficit until victory is won. The legislative line-item veto is not the only solution to our problems, but it is part of the solution. We owe it to our citizens to send to the Senate a message that we must give this line-item veto a try, for the sake of future generations, if not for our own.

Now Mr. Speaker, what the gentleman from California [Mr. DREIER] is proposing, is defeating the previous question so he can amend the resolution to make in order an amendment consisting of the text of H.R. 3801, the Legislation Reorganization Act.

This is not permissible under House precedents. Such an amendment would not be germane to the resolution and would surely be ruled out of order.

The gentleman knows it is not in order to amend an order-of-business resolution to accomplish indirectly that which he cannot achieve directly. So let no Member of this House be fooled. Voting against the previous question in hopes of adding H.R. 3801 to the rescission bill simply will not work.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The SPEAKER pro tempore (Mr. SWIFT). The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. DREIER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

Pursuant to clause 5(b) of rule XV, the Chair announces that he will reduce to not less than 5 minutes the time within which a roll-call vote, if ordered, may be taken on the adoption of the resolution.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 240, nays 185, not voting 9, as follows:

[Roll No. 326]

YEAS—240

Abercrombie	Deutsch	Johnson (SD)
Ackerman	Dicks	Johnson, E. B.
Andrews (ME)	Dingell	Johnston
Andrews (TX)	Dixon	Kaptur
Applegate	Dooley	Kennedy
Bacchus (FL)	Durbin	Kennelly
Baesler	Edwards (CA)	Kildee
Barca	Edwards (TX)	Kleczka
Barcia	Engel	Klein
Barlow	English	Klink
Barrett (WI)	Eshoo	Kopetski
Becerra	Evans	Kreidler
Beilenson	Farr	LaFalce
Berman	Fazio	Lambert
Bevill	Fields (LA)	Lancaster
Bilbray	Filner	Lantos
Blackwell	Fingerhut	LaRocco
Bonior	Flake	Laughlin
Borski	Foglietta	Lehman
Boucher	Ford (MI)	Levin
Brewster	Ford (TN)	Lewis (GA)
Brooks	Frank (MA)	Lipinski
Browder	Frost	Lloyd
Brown (CA)	Furse	Long
Brown (FL)	Gejdenson	Lowe
Brown (OH)	Gephardt	Maloney
Bryant	Geren	Mann
Byrne	Gibbons	Manton
Cantwell	Gonzalez	Margolies-Mezvinsky
Cardin	Gordon	Markey
Chapman	Green	Martinez
Clay	Gutierrez	Matsui
Clayton	Hall (OH)	Mazzoli
Clement	Hall (TX)	McCloskey
Clyburn	Hamburg	McDermott
Coleman	Harman	McHale
Collins (IL)	Hastings	McKinney
Collins (MI)	Hayes	McNulty
Condit	Hefner	Meehan
Conyers	Hilliard	Meek
Costello	Hinchey	Menendez
Coyne	Hoagland	Mfume
Cramer	Hochbrueckner	Miller (CA)
Danner	Holden	Mineta
Darden	Hoyer	Minge
de la Garza	Hughes	Mink
DeFazio	Hutto	Moakley
DeLauro	Inslee	Mollohan
Dellums	Jefferson	Montgomery
Derrick	Johnson (GA)	Moran

Murphy
Murtha
Nadler
Neal (MA)
Neal (NC)
Oberstar
Olver
Ortiz
Orton
Owens
Pallone
Parker
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Pomeroy
Poshard
Price (NC)
Rahall
Rangel
Reed
Reynolds
Richardson
Roemer

Rose
Rostenkowski
Rowland
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Sarpalius
Sawyer
Schenk
Schroeder
Schumer
Scott
Serrano
Sharp
Shepherd
Sisisky
Skaggs
Skelton
Slaughter
Smith (IA)
Spratt
Stark
Stenholm
Stokes
Strickland
Studds
Stupak
Swift

Synar
Tanner
Tauzin
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Traficant
Tucker
Unsoeld
Valentine
Velazquez
Vento
Visclosky
Volkmer
Washington
Waters
Watt
Waxman
Wheat
Whitten
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates

NAYS—185

Allard
Andrews (NJ)
Archer
Armey
Bachus (AL)
Baker (CA)
Baker (LA)
Ballenger
Barrett (NE)
Bartlett
Barton
Bateman
Bentley
Bereuter
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Clinger
Coble
Collins (GA)
Combest
Cooper
Coppersmith
Cox

Crane
Crapo
Cunningham
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Emerson
Everett
Ewing
Fawell
Fields (TX)
Fish
Fowler
Franks (CT)
Franks (NJ)
Gallegly
Gekas
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Goodlatte
Goodling
Goss
Grams
Grandy
Greenwood

Gunderson
Hamilton
Hancock
Hansen
Hastert
Hefley
Herger
Hobson
Hoekstra
Hoke
Horn
Houghton
Huffington
Hunter
Hutchinson
Hyde
Inglis
Inhofe
Istook
Jacobs
Johnson (CT)
Johnson, Sam
Kanjorski
Kasich
Kim
King
Kingston
Klug
Knollenberg
Kolbe
Kyl
Lazio
Leach
Levy
Lewis (CA)

Lewis (FL)	Paxon	Smith (MI)
Lewis (KY)	Petri	Smith (NJ)
Lightfoot	Pombo	Smith (OR)
Linder	Porter	Smith (TX)
Livingston	Portman	Snowe
Lucas	Pryce (OH)	Solomon
Machtley	Quinn	Spence
Manzullo	Ramstad	Stearns
McCandless	Ravenel	Stump
McCollum	Regula	Sundquist
McCrery	Ridge	Swett
McDade	Roberts	Talent
McHugh	Rogers	Taylor (MS)
McInnis	Rohrabacher	Taylor (NC)
McKeon	Ros-Lehtinen	Thomas (CA)
McMillan	Roth	Thomas (WY)
Meyers	Roukema	Torkildsen
Mica	Royce	Upton
Michel	Santorum	Vucanovich
Miller (FL)	Saxton	Walker
Molinari	Schaefer	Walsh
Moorhead	Schiff	Weldon
Morella	Sensenbrenner	Wolf
Myers	Shaw	Young (AK)
Nussle	Shays	Young (FL)
Oxley	Shuster	Zimmer
Packard	Skeen	

NOT VOTING—9

Bishop	McCurdy	Slattery
Carr	Obey	Towns
Gallo	Quillen	Zeliff

The Clerk announced the following pair:

On this vote: Mr. McCurdy for, with Mr. Quillen against.

Mr. GLICKMAN changed his vote from "yea" to "nay."

So the previous question was ordered.

The result of the vote was announced as above recorded.

The resolution was agreed to.

A motion to reconsider was laid on the table.

REQUEST TO MODIFY AMENDMENT NUMBERED 1 PRINTED IN HOUSE REPORT 103-565 TO H.R. 4600, EXPEDITED RE- SCISSIONS ACT OF 1994

Mr. SPRATT. Mr. Speaker, I ask unanimous consent to modify the amendment numbered 1 and printed in House Report 103-565. The modification is reduced to writing and available at the desk.

The SPEAKER pro tempore. The Clerk will report the modified amendment.

The Clerk read as follows:

Substitute Offered by Mr. SPRATT of South Carolina for Amendment Number 1 Printed In House Report 103-565: Page 10, line 17, insert ", unless the House has passed the text of the President's bill transmitted with that special message and the Senate passes an amendment in the nature of a substitute reported by its Committee on Appropriations" before the period.

Page 11, line 21, insert "and by striking '1012 and 1013' and inserting '1012, 1013, and 1014'" before the semicolon.

Page 12, line 1, strike "(2)" and insert "(1)".

Page 13, line 7, insert "or One Hundred Fourth" before "Congress".

Page 13, line 9, insert "or One Hundred Fifth" after "One Hundred Fourth".

Page 13, line 15, strike "One Hundred Third" and insert "previous".

Page 14, strike lines 7 through 11 and on line 12, strike "5" and insert "4".

The SPEAKER pro tempore. Is there objection to the request of the gentleman from South Carolina?

Mr. CLINGER. Mr. Speaker, reserving the right to object, I reserve the right to object to direct some questions to the author of the unanimous-consent request, specifically to inquire whether the bill pending before the committee this afternoon is identical to the bill which passed the House.

PARLIAMENTARY INQUIRY

Mr. SOLOMON. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. SOLOMON. Mr. Speaker, Members are confused about what is taking place. Is it not true that the rule on this bill has just passed and there is no vote pending and probably will not be for the next hour?

The SPEAKER pro tempore. The gentleman is correct.

Mr. SOLOMON. I thank the Chair.

Mr. CLINGER. Mr. Speaker, I have reserved the right to object to inquire of the proponent of the unanimous-consent request if the bill, that is, H.R. 4600 pending before the committee is identical to that which already passed the House, or which was considered and passed by the House last year. I would inquire of the proponent if that is correct.

Mr. SPRATT. Mr. Speaker, will the gentleman yield?

Mr. CLINGER. I yield to the gentleman from South Carolina.

Mr. SPRATT. Mr. Speaker, the bill that is being offered as the base bill is the bill that passed the House, I believe, on April 29, 1993.

Mr. CLINGER. Mr. Speaker, further reserving the right to object, I would like to then ask the gentleman from South Carolina if he had an opportunity to have this consent request considered when the Committee on Government Operations marked up this bill or if the Committee on Government Operations did consider this bill.

Mr. SPRATT. The committee itself did not report this bill. The gentleman is correct, it did not.

Mr. CLINGER. Further reserving the right to object, I would inquire if this amendment that is proposed now as a unanimous consent request was propounded at the time the gentleman appeared before the Committee on Rules or did he present this before the Committee on Rules.

Mr. SPRATT. Part of it was, part of it was not. The upper part of the amendment which would have the bill amend page 10, line 17 was propounded and is made in order and will be offered as an amendment immediately after the bill itself is called in the Com-

mittee of the Whole. The balance of the amendment would in effect change the bill in one simple respect.

This bill in order to conform to the bill that the House passed in April 1993 is identical in all respects, but that means that it applies only to the 103d Congress. At that time, a lot of the 103d Congress was yet to be conducted. We would like to amend this bill by this amendment and by this language so that it would apply to the 103d Congress and the 104th Congress as well.

Mr. CLINGER. Mr. Speaker, given the fact that the committee of jurisdiction, that is, the Committee on Government Operations waived its jurisdiction over this bill, this bill has never been considered by the Committee on Government Operations, which is the committee of jurisdiction, and, therefore, this matter was not really given an opportunity to be discussed, debated or amended through the committee process. Because of that fact and the fact that the gentleman could have offered this request at various stages of this proceeding, I must object.

The SPEAKER pro tempore. Objection is heard.



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